

# HOUSE JOURNAL

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SEVENTY-FIFTH LEGISLATURE, REGULAR SESSION

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## PROCEEDINGS

EIGHTY-THIRD DAY — MONDAY, MAY 26, 1997

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 552).

Present — Mr. Speaker; Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merriitt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Serna; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

The house and gallery observed a minute of silence in honor of those who died in the service of their country.

The invocation was offered by Father Vincent Dulock, Saints Basil and Thomas Church, Angleton, as follows:

Let us pray.

Almighty and merciful God, remember our beloved dead, our family and friends, those who have laid down their lives in the service of our great country so that we may have and continue to esteem freedom, peace and happiness. Grant all of these your mercy and the light of your presence. May their deaths not have been in vain, but increase in all of us the desire and the will to work for justice and peace among all peoples and nations. This we ask in the name of Jesus Christ our Lord.

Now let us pray for ourselves....

Almighty and eternal God, you have revealed your glory to all nations. God of power and might, wisdom and justice, through you authority is rightly administered, laws are enacted, and judgment is decreed.

Assist with your spirit of counsel and fortitude these legislators of the State of Texas that their deliberations may be conducted in righteousness and be eminently useful to your people for whom they enact laws. May they encourage due respect for virtue and religion. May they execute laws with justice and mercy. May they seek to restrain crime, vice, and immorality.

Let the light of your divine wisdom direct the deliberations of this legislature and shine forth in all the proceedings and laws framed for our rule and government. May they seek to preserve peace, promote happiness, and continue to bring us the blessings of liberty and equality.

We pray for the governor of this state, for the members of the legislature, for judges, elected civil officials, and all others who are entrusted to guard our political welfare. May they be enabled by your powerful protection to discharge their duties with honesty and ability.

We likewise commend to your unbounded mercy all citizens of this state that we may be blessed in the knowledge and sanctified in the observance of your holy law. May we be preserved in union and that peace which the world cannot give and, after enjoying the blessings of this life, be admitted to those which are eternal.

We pray to you, who are Lord and God, forever and ever. Amen.

### **CAPITOL PHYSICIAN**

The speaker recognized Representative Maxey who presented Dr. Patricia S. Hanley of Austin as the "Doctor for the Day."

The house welcomed Dr. Hanley and thanked her for her participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

### **BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER**

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 66).

### **HR 1105 - NOTICE OF INTRODUCTION**

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the speaker announced the introduction of **HR 1105**, suspending the limitations on the conferees for **HB 1662**.

(Hernandez in the chair)

### **HR 810 - ADOPTED (by Hunter)**

Representative Hunter moved to suspend all necessary rules to take up and consider at this time **HR 810**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

**HR 810**, Honoring Brigadier General Bertus Leroy Sisco of the Texas State Guard.

**HR 810** was adopted without objection.

### **LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence temporarily for today because of important business in the district:

Place on motion of Averitt.

**HR 1107 - ADOPTED**  
**(by Seaman)**

Representative Seaman moved to suspend all necessary rules to take up and consider at this time **HR 1107**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

**HR 1107**, Honoring Polly McCann and Pete Pruneda on the occasion of their wedding.

**HR 1107** was adopted without objection.

**HR 1074 - ADOPTED**  
**(by Hunter and Keffer)**

Representative Hunter moved to suspend all necessary rules to take up and consider at this time **HR 1074**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

**HR 1074**, Congratulating Oran Egger on his retirement.

**HR 1074** was adopted without objection.

**HR 1106 - ADOPTED**  
**(by Giddings)**

Representative Giddings moved to suspend all necessary rules to take up and consider at this time **HR 1106**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

**HR 1106**, Honoring the Lincoln High School girls' track team.

**HR 1106** was read and was adopted without objection.

On motion of Representative Hodge, the names of all the members of the house were added to **HR 1106** as signers thereof.

**INTRODUCTION OF GUESTS**

The chair recognized Representative Giddings, who introduced members of the Lincoln High School 4A State Championship relay team and their coach, Blondell Crowe.

**HR 1088 - ADOPTED**  
**(by Hodge)**

Representative Hodge moved to suspend all necessary rules to take up and consider at this time **HR 1088**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

**HR 1088**, Congratulating the James Madison High School girls track team on winning the Class 3A state championship.

**HR 1088** was read and was adopted without objection.

On motion of Representative Giddings, the names of all the members of the house were added to **HR 1088** as signers thereof.

### INTRODUCTION OF GUESTS

The chair recognized Representative Hodge, who introduced members of the James Madison High School 3A State Championship track team and their coach, Charletta Gaines.

### **HR 1097 - ADOPTED** (by Kubiak)

Representative Kubiak moved to suspend all necessary rules to take up and consider at this time **HR 1097**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

**HR 1097**, Recognizing the first Sundays in April and October as Texas Cemetery Visitation Days.

**HR 1097** was read and was adopted without objection.

On motion of Representative Jackson, the names of all the members of the house were added to **HR 1097** as signers thereof.

### INTRODUCTION OF GUESTS

The chair recognized Representative Kubiak, who introduced Karen Thompson, president of Save Texas Cemeteries, Inc., and Richard Scroggins, vice-president.

### INTRODUCTION OF GUESTS

The chair recognized Representative Jackson, who introduced the participants in the 1997 World Scholar-Athlete Games.

**HR 657**, congratulating Jamie Kitchen, Shall Salmon, Stacey Golden, Jeanna Poteet, Angie Gutierrez, Coach Robert Kelly, and Coach Darla Kelly, having been previously adopted, was read.

### **HR 1108 - ADOPTED** (by Williams)

Representative Williams moved to suspend all necessary rules to take up and consider at this time **HR 1108**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

**HR 1108**, Paying tribute to the life of Meghan Christine Manning.

**HR 1108** was unanimously adopted by a rising vote.

On motion of Representative Edwards, the names of all the members of the house were added to **HR 1108** as signers thereof.

**HCR 301 - ADOPTED**  
**(by Goodman)**

Representative Goodman moved to suspend all necessary rules to take up and consider at this time **HCR 301**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

**HCR 301**

WHEREAS, **HB 1917** has been adopted by the house of representatives and the senate; and

WHEREAS, The bill contains a technical error that should be corrected; now, therefore, be it

RESOLVED, That the enrolling clerk of the house of representatives be hereby instructed to correct **HB 1917** to conform the transition provisions of the bill to changes made by Senate Floor Amendment No. 1 by striking SECTION 11 of the bill and substituting a new SECTION 11 to read as follows:

"SECTION 11. This Act takes effect September 1, 1997."

**HCR 301** was adopted without objection.

**BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER**

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, Senate List No. 34).

**RESOLUTIONS REFERRED TO COMMITTEES**

Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

**HR 1105 - ADOPTED**  
**(by Counts)**

The chair laid before the house the following privileged resolution:

**HR 1105**

BE IT RESOLVED by the House of Representatives of the State of Texas, 75th Legislature, Regular Session, 1997, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the difference on **HB 1662** to consider and take action on the following specific matters:

House Rule 13, Sections 9(a)(2) and (3), are suspended to permit the committee to change Section 3(r), Article 5.101, Insurance Code, to read as follows:

(r) In order to avoid the circumvention of the flexible rating program, and notwithstanding Article 17.22(b), Insurance Code, a county mutual insurance company may not write private passenger automobile insurance for any risk at a rate that, after the application of all discounts and policy fees, is lower than

the highest rate allowed under the flexibility band for that line. Not later than the 60th day after the effective date of a benchmark rate, a county mutual insurance company shall make any filing necessary to comply with this subsection. The rates of the county mutual insurance company that are in effect on the effective date of the benchmark rate continue in effect until the filing is made. This subsection does not apply to single interest insurance or insurance on mobile homes, motor homes, travel trailers, or motorcycles.

Explanation: This change is necessary to provide that the requirements of Subsection (r) apply to all county mutual insurance companies but not apply to certain types of insurance and to specify procedures necessary for compliance with the requirements.

**HR 1105** was adopted without objection.

### **PROVIDING FOR A LOCAL, CONSENT, AND RESOLUTIONS CALENDAR**

Representative Carter moved to set a local, consent, and resolutions calendar for 10 a.m. Wednesday, May 28.

The motion prevailed without objection.

### **SB 1 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED**

On motion of Representative R. Lewis, the house granted the request of the senate for the appointment of a conference committee on **SB 1**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1**: R. Lewis, chair, Cook, Counts, Puente, and Walker.

### **SB 370 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Bosse, the house granted the request of the senate for the appointment of a conference committee on **SB 370**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 370**: Bosse, chair, Alexander, Davis, Gray, and Hill.

### **POSTPONED BUSINESS**

The following bills were laid before the house as postponed business:

### **CSSB 1898 ON SECOND READING (Junell - House Sponsor)**

**CSSB 1898**, A bill to be entitled An Act relating to making emergency appropriations.

**CSSB 1898** was read second time on May 19, postponed until May 23, and was again postponed until 10 a.m. today.

Representative Junell moved to postpone consideration of **CSSB 1898** until 5 p.m. today.

The motion prevailed without objection.

### INTRODUCTION OF GUEST

The chair recognized Representative Serna, who introduced Araceli Valdez. Ms. Valdez addressed the house briefly.

**HR 822**, honoring Araceli Valdez, having been previously adopted, was read.

(Speaker in the chair)

### **SB 247 ON THIRD READING** **(Culberson - House Sponsor)**

**SB 247**, A bill to be entitled An Act relating to compulsory attendance in public schools.

**SB 247** was read third time on May 24 and was postponed until 10 a.m. today.

#### **Amendment No. 1**

Representative Culberson offered the following amendment to **SB 247**:

Amend **SB 247** as follows:

SECTION 2., on page 3, line 4, add a new "Subsection (c) A student in a school district that participates in a juvenile justice alternative education program under Section 37.011 is not exempt from the requirements of compulsory school attendance."

Amendment No. 1 was adopted without objection.

#### **Amendment No. 2**

Representative Staples offered the following amendment to **SB 247**:

Amend **SB 247** on third reading by adding an appropriately numbered SECTION to read as follows and by renumbering existing SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 25.001(b), Education Code, is amended to read as follows:

(b) The board of trustees of a school district or its designee shall admit into the public schools of the district free of tuition a person who is over five and younger than 21 years of age on the first day of September of the school year in which admission is sought if:

(1) the person and either parent of the person reside in the school district;

(2) the person does not reside in the school district, but a parent of the person who is the person's joint managing conservator, sole managing conservator, or possessory conservator resides in the school district;

(3) the person and the person's guardian or other person having lawful control of the person under a court order reside within the school district;

(4) ~~(3)~~ the person has established a separate residence under Subsection (d);

(5) [(4)] the person is homeless, as defined by 42 U.S.C. Section 11302, regardless of the residence of the person, of either parent of the person, or of the person's guardian or other person having lawful control of the person;

(6) [(5)] the person is a foreign exchange student placed with a host family that resides in the school district by a nationally recognized foreign exchange program, unless the school district has applied for and been granted a waiver by the commissioner under Subsection (e); or

(7) [(6)] the person resides in the school district and is 18 years of age or older or the person's disabilities of minority have been removed.

Amendment No. 2 was adopted without objection.

Representative Culberson moved to reconsider the vote by which Amendment No. 1 was adopted.

The motion to reconsider prevailed.

Amendment No. 1 was withdrawn.

**SB 247**, as amended, was passed. (Gutierrez, Heflin, Kubiak, Patterson, and Swinford recorded voting no)

(Oakley in the chair)

#### **SB 1036 ON SECOND READING (S. Turner - House Sponsor)**

**SB 1036**, A bill to be entitled An Act relating to the charitable contributions of state employees.

**SB 1036** was read second time on May 24 and was postponed until 10 a.m. today.

(Speaker in the chair)

**SB 1036** was passed to third reading.

#### **SB 360 ON SECOND READING (Stiles - House Sponsor)**

**SB 360**, A bill to be entitled An Act relating to the review and continuation of certain state agencies and laws subject to the Texas Sunset Act.

**SB 360** was read second time on May 21, postponed until May 22, postponed until May 23, postponed until May 24, postponed until May 25, and was again postponed until 10 a.m. today.

Representative Stiles moved to postpone consideration of **SB 360** until 10 a.m. Tuesday, May 27.

The motion prevailed without objection.

#### **SB 414 ON SECOND READING (Coleman and A. Reyna - House Sponsors)**

**SB 414**, A bill to be entitled An Act relating to certain advance directives for medical treatment; providing administrative penalties.

**SB 414** was read second time on May 25 and was postponed until 10 a.m. today.



**Amendment No. 1 (Committee Amendment No. 1)**

On behalf of Representative Berlanga, Representative A. Reyna offered the following committee amendment to **SB 414**:

Amend **SB 414** as follows:

(1) In Section 166.002(1), Health and Safety Code, as added by SECTION 1.02 of the bill, strike "or" (page 1, line 17, Engrossed version).

(2) In Section 166.002(1), Health and Safety Code, as added by SECTION 1.02 of the bill, strike the period (page 1, line 19, Engrossed version), and insert "; or".

(3) In Section 166.002(1), Health and Safety Code, as added by SECTION 1.02 of the bill, after Paragraph (B) (page 1, between lines 19 and 20, Engrossed version), insert the following:

(C) a durable power of attorney for health care.

(4) In Section 166.002(5), Health and Safety Code, as added by SECTION 1.02 of the bill, strike "a durable power of attorney for health care" (page 2, line 8, Engrossed version), and substitute "a document delegating to an agent authority to make health care decisions".

(5) In Section 166.003, Health and Safety Code, as added by SECTION 1.02 of the bill, strike Subdivision (5) (page 4, lines 1-2, Engrossed version), and substitute the following:

(5) a person or agent designated by the declarant to make a treatment decision;

(6) In Section 166.004(b), Health and Safety Code, as added by SECTION 1.02 of the bill, strike "The health" (page 4, line 21, Engrossed version), and substitute "Except as provided by Subsection (g), the health".

(7) In Section 166.004(c), Health and Safety Code, as added by SECTION 1.02 of the bill, after Subdivision (1) (page 5, between lines 8 and 9, Engrossed version), insert the following:

(2) the individual's spouse;

(8) In Section 166.004(c), Health and Safety Code, as added by SECTION 1.02 of the bill, strike "(2)" (page 5, line 9, Engrossed version), and substitute "(3)".

(9) In Section 166.004(c), Health and Safety Code, as added by SECTION 1.02 of the bill, strike "(3)" (page 5, line 10, Engrossed version), and substitute "(4)".

(10) In Section 166.004(c), Health and Safety Code, as added by SECTION 1.02 of the bill, strike "(4)" (page 5, line 11, Engrossed version), and substitute "(5)".

(11) In Section 166.004(c), Health and Safety Code, as added by SECTION 1.02 of the bill, strike "(5)" (page 5, line 12, Engrossed version), and substitute "(6)".

(12) In Section 166.004, Health and Safety Code, as added by SECTION 1.02 of the bill, after Subsection (f) (page 6, between lines 7 and 8, Engrossed version), insert the following:

(g) This section does not apply to outpatient hospital services, including emergency services.

(13) In Section 166.033, Health and Safety Code, as redesignated and

amended by SECTION 1.03 of the bill, strike "I am not a patient in the health care facility in which the declarant is a patient." (page 11, lines 6-8, Engrossed version), and substitute "[~~I am not a patient in the health care facility in which the declarant is a patient.~~]"

(14) In Section 166.039, Health and Safety Code, as redesignated and amended by SECTION 1.03 of the bill, strike Subsections (d) and (e) (page 14, lines 11-18, Engrossed version), and substitute the following:

(d) A treatment decision made under Subsection (b) must be documented in the patient's medical record and signed by the attending physician [~~made in the presence of at least two witnesses who possess the same qualifications as are required by Section 672.003(c).~~].

(e) If the patient does not have a legal guardian and a person listed in Subsection (b) is not available, a treatment decision made under Subsection (b) must be witnessed by another physician who is not involved in the treatment of the patient.

(f) [(e)] The fact that an adult qualified patient has not executed or issued a directive does not create a presumption that the patient does not want a treatment decision to be made to withhold or withdraw life-sustaining procedures.

(15) In Section 166.154(c), Health and Safety Code, as redesignated and amended by SECTION 1.05 of the bill, strike "appeared to be competent [~~of sound mind to make a health care decision~~];" (page 49, lines 1-2, Engrossed version), and substitute "[~~appeared to be of sound mind to make a health care decision~~;]".

(16) In Section 166.154(c), Health and Safety Code, as redesignated and amended by SECTION 1.05 of the bill, strike "(2)" (page 49, line 3, Engrossed version), and substitute "[~~(2)~~]"

(17) In Section 166.154(c), Health and Safety Code, as redesignated and amended by SECTION 1.05 of the bill, strike "(3)" (page 49, line 7, Engrossed version), and substitute "[~~(3)~~]"

(18) In Section 166.165, Health and Safety Code, as redesignated and amended by SECTION 1.05 of the bill, after the semicolon following Subdivision (6) (page 59, line 1, Engrossed version), insert "or".

(19) In Section 166.165, Health and Safety Code, as redesignated and amended by SECTION 1.05 of the bill, strike Subdivision (7) (page 59, lines 2-3, Engrossed version).

(20) In Section 166.165, Health and Safety Code, as redesignated and amended by SECTION 1.05 of the bill, renumber Subdivision (8) as Subdivision (7) (page 59, line 4, Engrossed version).

(21) In Section 166.166, Health and Safety Code, as redesignated and amended by SECTION 1.05 of the bill, strike "that I believe the principal to be of sound mind," (page 62, lines 17-18, Engrossed version), and substitute "[~~that I believe the principal to be of sound mind~~;]".

(22) In Section 166.166, Health and Safety Code, as redesignated and amended by SECTION 1.05 of the bill, strike "I am not a patient in the health care facility in which the principal is a patient," (page 63, lines 4-5, Engrossed version).

Amendment No. 1 was adopted without objection.

**Amendment No. 2**

Representative Longoria offered the following amendment to **SB 414**:

Amendments to **SB 414** ENGROSSED VERSION

- 1) On page 18, line 16, strike "LIMITATION OF".
- 2) On page 18, line 23, following "directive" insert "so long as the physician or professional complies with subsection (c) of this section".
- 3) On page 19, line 1, following "physician." insert "If failure to comply with a treatment decision or directive would in reasonable medical judgment be likely to result in the death of the patient, the physician must comply with it pending the completion of the transfer. This subsection does not require the provision of treatment the physician is physically or legally unable to provide or is physically or legally unable to provide without thereby denying the same treatment to another patient."
- 4) On page 20, line 8, following "manner" insert ", provided that this section may not be construed to authorized any violation of section 166.046(c)".
- 5) On page 52, line 2, following "physician." insert "If failure to comply with the directive would in reasonable medical judgment be likely to result in the death of the patient, the provider must comply with it pending the completion of the transfer of the patient to another physician or provider. This subsection does not require the provision of treatment the provider is physically or legally unable to provide or is physically or legally unable to provide without thereby denying the same treatment to another patient."
- 6) On page 64, line 24, following "person" insert ", provided that this section may not be construed to authorize any violation of section 166.158(c)".

**Amendment No. 3**

Representative Corte offered the following amendment to Amendment No. 2:

Amend Floor Amendment No. 2 by Longoria to **SB 414** by inserting the following new item, appropriately numbered, to read as follows:

( ) In SECTION 1.03 of the bill, in amended Section 672.008(c), Health and Safety Code, as redesignated as Section 166.038(c), Health and Safety Code (House Committee Report page 13, lines 11-12) by striking "the attending physician shall comply with the directive unless the physician believes that the directive does not reflect the patient's present desire" and substituting "the attending physician shall follow the procedures described by Sections 166.039(b)-(e) [comply with the directive unless the physician believes that the directive does not reflect the patient's present desire]".

Amendment No. 3 was adopted without objection.

A record vote was requested.

Amendment No. 2, as amended, was adopted by (Record 553): 88 Yeas, 57 Nays, 1 Present, not voting.

Yeas — Allen; Alvarado; Averitt; Bailey; Bonnen; Brimer; Carter; Chavez; Chisum; Christian; Clark; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Delisi; Denny; Driver; Eiland; Elkins; Finnell; Flores; Galloway;

Garcia; Goodman; Goolsby; Grusendorf; Gutierrez; Hamric; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Luna; Madden; Marchant; McCall; Merritt; Moffat; Nixon; Palmer; Patterson; Pickett; Pitts; Rabuck; Reyna, E.; Seaman; Serna; Shields; Siebert; Smith; Smithee; Solomons; Staples; Swinford; Talton; Thompson; Tillery; Uher; Walker; West; Williams; Williamson; Wohlgemuth; Woolley.

Nays — Alexander; Berlanga; Bosse; Burnam; Coleman; Danburg; Davila; Davis; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Farrar; Gallego; Giddings; Glaze; Gray; Greenberg; Haggerty; Hernandez; Hightower; Hirschi; Hochberg; Hodge; Jones, J.; Lewis, G.; Lewis, R.; Longoria; Maxey; McClendon; McReynolds; Mowery; Naishtat; Oakley; Oliveira; Olivo; Price; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Rhodes; Roman; Sadler; Solis; Stiles; Telford; Torres; Turner, B.; Turner, S.; Van de Putte; Wise; Wolens; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Place.

Absent — Moreno; Wilson.

### STATEMENT OF VOTE

I was shown voting no on Record No. 553. I intended to vote yes.

Longoria

**SB 414**, as amended, was passed to third reading. (Swinford recorded voting no)

### COMMITTEE GRANTED PERMISSION TO MEET

Representative R. Lewis requested permission for the conference committee on **SB 1** to meet while the house is in session for the remainder of the session.

Permission to meet was granted without objection.

### RULES SUSPENDED

Representative Berlanga moved to suspend the 5-day posting rule to allow the Committee on Public Health to consider **HCR 286** and **HCR 296**.

The motion prevailed without objection.

### COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Public Health, on recess today, Desk 138, to consider **HCR 286** and **HCR 296**.

Civil Practices, on recess today, Desk 6, to consider **SCR 71**.

### RECESS

Representative D. Jones moved that the house recess until 2 p.m. today.

The motion prevailed without objection.

The house accordingly, at 12:37 p.m., recessed until 2 p.m. today.

### **AFTERNOON SESSION**

The house met at 2 p.m. and was called to order by the speaker.

### **POSTPONED BUSINESS (consideration continued)**

#### **SB 1387 ON SECOND READING (Eiland - House Sponsor)**

**SB 1387**, A bill to be entitled An Act relating to benefits for certain roof damage on property insured through the Texas Catastrophe Property Insurance Association.

**SB 1387** was read second time on May 25 and was postponed until 10 a.m. today.

**SB 1387** was passed to third reading.

#### **SB 609 ON SECOND READING (Van de Putte - House Sponsor)**

**SB 609**, A bill to be entitled An Act relating to the regulation of pharmacies and pharmacists; providing a penalty.

**SB 609** was read second time on May 25 and was postponed until 10 a.m. today.

Representative Berlanga moved to postpone consideration of **SB 609** until 3 p.m. today.

The motion prevailed without objection.

#### **SB 885 ON SECOND READING (Thompson - House Sponsor)**

**SB 885**, A bill to be entitled An Act relating to limitations on certain covenants.

**SB 885** was read second time on May 25 and was postponed until 11 a.m. today.

Representative Solomons moved to postpone consideration of **SB 885** until 6 p.m. today.

The motion prevailed without objection.

### **GENERAL STATE CALENDAR SENATE BILLS THIRD READING**

The following bills were laid before the house and read third time:

#### **SB 385 ON THIRD READING (Smithee, Van de Putte, Berlanga, Naishtat, Janek, et al. - House Sponsors)**

**SB 385**, A bill to be entitled An Act relating to the regulation of health maintenance organizations.

**Amendment No. 1**

Representative Smithee offered the following amendment to **SB 385**:

Amend **SB 385** on 3rd reading in SECTION \_\_\_\_, on page \_\_\_\_, following line \_\_\_\_, by adding Subsections (m) and (n) to read as follows:

"(m) A health maintenance organization shall not prohibit a beneficiary who is a resident of a continuing care retirement facility holding a certificate of authority under Chapter 246, Health and Safety Code, or a housing facility which provides residential living and also provides licensed nursing facility care of licensed personal care facility services on the same campus from choosing to receive covered services in that facility's licensed nursing facility or licensed personal care facility and shall not refuse to pay for covered services at the agreed upon or negotiated rate.

(n) A health maintenance organization shall not prohibit a beneficiary who is a resident of a nursing facility licensed under Chapter 242, Health and Safety Code, prior to a hospital stay from choosing to return to the nursing facility after a hospital stay and to receive covered services in that facility's licensed nursing facility and shall not refuse to pay for covered services at the agreed upon or negotiated rate."

Amendment No. 1 was adopted without objection.

**Amendment No. 2**

Representative Van de Putte offered the following amendment to **SB 385**:

Amend **SB 385** on third reading as follows:

(1) In the introductory language to the SECTION of the bill in which Section 14, Texas Health Maintenance Act (Chapter 20A, Vernon's Texas Insurance Code) is amended, strike "Subsections (i)-(s)" and substitute "Subsections (i)-(m)".

(2) In Section 14, Texas Health Maintenance Act (Chapter 20A, Vernon's Texas Insurance Code), strike Subsections (n)-(s), as added by Floor Amendment No. 18 by Van de Putte.

Amendment No. 2 was adopted without objection.

**Amendment No. 3**

Representatives G. Lewis, Wise, Bonnen, Averitt, Van de Putte, Dunnam, Smithee, and Olivo offered the following amendment to **SB 385**:

Amend **SB 385** on third reading by adding the following new sections, appropriately numbered, and renumbering the subsequent sections accordingly:

SECTION \_\_\_\_\_. Article 1.35A, Vernon's Texas Insurance Code, is amended by adding Subsection (e) to read as follows:

(e) The office of public insurance counsel shall develop and implement a rating system to compare and evaluate, on an objective basis, the quality of care provided by, and the performance of health maintenance organizations.

(1) In developing the rating system, the office may use information or data from any person, agency, organization, or governmental unit that the office deems reliable.

(2) The office shall develop and issue annually consumer report cards

that identify and compare health maintenance organizations in this state. The consumer report card may be based on information or data from any person, agency, organization, or governmental unit that the office deems reliable.

(3) The department of insurance and the health care information council shall provide information or data as requested by the office of public insurance counsel in furtherance of these duties.

(4) The office is entitled to information provided by health maintenance organizations to the commissioner under this code or another insurance law of this state, including confidential information. The office may not make public confidential information provided to the office under this subsection, but may disclose a summary of the information that does not directly or indirectly identify the health maintenance organization that is the subject of the information. The office may not release, and a person or entity may not gain access to, any confidential information.

(5) The office of public insurance counsel shall provide a copy of the consumer report to any person on request on payment of a reasonable fee.

SECTION \_\_\_\_\_. Subsection (a), Article 1.35B, Vernon's Texas Insurance Code, is amended to read as follows:

(a) To defray the costs of creating, administering, and operating the office of public insurance counsel, the comptroller shall collect the following assessments annually in connection with the collection of other taxes imposed on insurers:

(1) each property and casualty insurer authorized to do business in this state shall pay an annual assessment of 5.7 cents for each policy of property and casualty insurance in force at year end in this state;

(2) each insurer shall pay an annual assessment of 5.7 [3] cents for each individual policy, and for each certificate of insurance evidencing coverage under a group policy, of life, health, or accident insurance written for delivery and placed in force with the initial premium thereon paid in full in this state during each calendar year if the insurer is authorized to do business in this state under:

(A) Chapter 3, 10, 11, 14, 20, 22, 23, or 25 of this code;

(B) Chapter 113, Acts of the 53rd Legislature, Regular Session, 1953 (Article 3.49-1, Vernon's Texas Insurance Code);

(C) Section 1, Chapter 417, Acts of the 56th Legislature, Regular Session, 1959 (Article 3.49-2, Vernon's Texas Insurance Code);

(D) the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code);

(E) the Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code);

(F) Section 1, Chapter 123, Acts of the 60th Legislature, Regular Session, 1967 (Article 3.51-3, Vernon's Texas Insurance Code);

(G) Section 1, Chapter 387, Acts of the 55th Legislature, Regular Session, 1957 (Article 3.62-1, Vernon's Texas Insurance Code);

(H) Sections 1 to 3A and 4 to 13, Chapter 397, Acts of the 54th Legislature, Regular Session, 1955 (Articles 3.70-1 to 3.70-3A and 3.70-4 to 3.70-11, Vernon's Texas Insurance Code); or

(I) the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code); and

(3) each title insurance company authorized to do business in this state shall pay an annual assessment of 5.7 cents for each owner policy and mortgage policy of title insurance written for delivery in this state during each calendar year and for which the full basic premium is charged.

Amendment No. 3 was adopted without objection.

**SB 385**, as amended, was passed.

### **BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER**

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 67).

#### **SB 1752 ON THIRD READING (Wolens - House Sponsor)**

**SB 1752**, A bill to be entitled An Act relating to the purchase of goods and services by the state and to purchasing services provided by the state to local governments.

#### **Amendment No. 1**

Representative Wolens offered the following amendment to **SB 1752**:

Amend **SB 1752** on 3rd reading by adding SECTION 27 to the bill and renumbering subsequent SECTIONS of the bill accordingly:

"SECTION 27. Nothing in this Act shall increase or decrease the authority of the Public Utility Commission of Texas."

Amendment No. 1 was adopted without objection.

**SB 1752**, as amended, was passed.

#### **SB 1937 ON THIRD READING (Carter - House Sponsor)**

**SB 1937**, A bill to be entitled An Act relating to the provision of telecommunications services within municipalities.

**SB 1937** was passed.

#### **SB 1063 ON THIRD READING (Hill - House Sponsor)**

**SB 1063**, A bill to be entitled An Act relating to the creation of municipal courts of record in Richardson.

A record vote was requested.

**SB 1063** was passed by (Record 554): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila;



Davis; Delisi; Denny; Driver; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Serna; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Place.

Absent — Dukes; Giddings; Haggerty; Naishtat.

**SB 258 ON THIRD READING**  
**(McCall - House Sponsor)**

**SB 258**, A bill to be entitled An Act relating to coverage under certain health benefit plans of tests for the detection of prostate cancer.

**SB 258** was passed. (Heflin recorded voting no)

**MESSAGE FROM THE SENATE**

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

**SB 95 ON THIRD READING**  
**(Shields - House Sponsor)**

**SB 95**, A bill to be entitled An Act relating to the immediate qualification for an ad valorem tax exemption for a church or other nonprofit organization.

**SB 95** was passed.

**SB 631 ON THIRD READING**  
**(Junell - House Sponsor)**

**SB 631**, A bill to be entitled An Act relating to the compensation of retired state employees who return to work for, or contract with, the state.

**SB 631** was passed.

**SB 882 ON THIRD READING**  
**(Greenberg and Stiles - House Sponsors)**

**SB 882**, A bill to be entitled An Act relating to negotiated rulemaking by state agencies.

**SB 882** was passed.

**SB 517 ON THIRD READING**  
**(Hawley - House Sponsor)**

**SB 517**, A bill to be entitled An Act relating to the transportation of public school students.

A record vote was requested.

**SB 517** was passed by (Record 555): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Serna; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Place.

Absent — Edwards; Price; Turner, S.

**SB 502 ON THIRD READING**  
**(Van de Putte - House Sponsor)**

**SB 502**, A bill to be entitled An Act relating to autopsies performed on a body and inquests required if the deceased was a child younger than six years of age.

**SB 502** was passed.

**SB 84 ON THIRD READING**  
**(Junell, Hilderbran, and Naishtat - House Sponsors)**

**SB 84**, A bill to be entitled An Act relating to the licensure and regulation of nursing facility administrators; providing penalties.

**SB 84** was passed.

**SB 135 ON THIRD READING**  
**(Gray - House Sponsor)**

**SB 135**, A bill to be entitled An Act relating to the immunity from liability of counties and juvenile boards and their employees and volunteers in relation to certain responsibilities.

A record vote was requested.

**SB 135** was passed by (Record 556): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Serna; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Place.

Absent — Moffat; Reyna, A.

### **SB 1596 ON THIRD READING (Berlanga - House Sponsor)**

**SB 1596**, A bill to be entitled An Act relating to ad valorem tax incentives for the development or redevelopment of certain property subject to a voluntary cleanup agreement.

**SB 1596** was passed.

### **SB 672 ON THIRD READING (Goolsby - House Sponsor)**

**SB 672**, A bill to be entitled An Act relating to permitting an aircraft to be used in alcoholic beverage advertising or promotion.

A record vote was requested.

**SB 672** was passed by (Record 557): 109 Yeas, 34 Nays, 1 Present, not voting.

Yeas — Alexander; Alvarado; Averitt; Bailey; Berlanga; Bosse; Burnam; Carter; Chavez; Chisum; Coleman; Cook; Corte; Counts; Cuellar; Danburg; Davila; Davis; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Farrar; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hawley; Hernandez; Hightower; Hilbert; Hilderbran; Hinojosa; Hirschi; Hochberg; Hodge;

Holzheuser; Horn; Hupp; Jackson; Jones, J.; Junell; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Naishtat; Oakley; Olivo; Patterson; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Rhodes; Sadler; Seaman; Serna; Shields; Siebert; Smithee; Solis; Stiles; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wilson; Wise; Wolens; Yarbrough; Zbranek.

Nays — Allen; Bonnen; Brimer; Christian; Clark; Crabb; Craddick; Culbertson; Delisi; Denny; Driver; Elkins; Finnell; Hartnett; Heflin; Hill; Howard; Hunter; Isett; Janek; Jones, D.; Kamel; Madden; Mowery; Nixon; Palmer; Rabuck; Roman; Smith; Solomons; Staples; Swinford; Wohlgemuth; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Place.

Absent — Oliveira; Price; Reyna, A.; Reyna, E.

#### STATEMENTS OF VOTE

I was shown voting yes on Record No. 557. I intended to vote no.

Corte

I was shown voting no on Record No. 557. I intended to vote yes.

Janek

I was shown voting yes on Record No. 557. I intended to vote no.

Keffer

I was shown voting yes on Record No. 557. I intended to vote no.

Talton

#### SB 1624 ON THIRD READING

(Kubiak - House Sponsor)

**SB 1624**, A bill to be entitled An Act relating to the use and management of the state employee sick leave pool.

**SB 1624** was passed.

#### COMMITTEE GRANTED PERMISSION TO MEET

Representative Goodman requested permission for the conference committee on **HB 1550** to meet while the house is in session for the remainder of the session.

Permission to meet was granted without objection.

#### COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Conference Committee on **HB 1550**, 3 p.m. today.

**SB 1098 ON THIRD READING**  
**(Goodman - House Sponsor)**

**SB 1098**, A bill to be entitled An Act relating to exempting certain support payments from seizure.

**SB 1098** was passed.

**SB 333 ON THIRD READING**  
**(Thompson - House Sponsor)**

**SB 333**, A bill to be entitled An Act relating to the payments of insurance benefits for a child to the possessory or managing conservator of the child.

**SB 333** was passed.

**SB 79 ON THIRD READING**  
**(McClendon - House Sponsor)**

**SB 79**, A bill to be entitled An Act relating to certain insurance covering church property; providing a penalty.

**SB 79** was passed.

**SB 1715 ON THIRD READING**  
**(Jackson - House Sponsor)**

**SB 1715**, A bill to be entitled An Act relating to required contents in a notice for the adoption of proposed rules by a state agency.

**SB 1715** was passed.

**SB 1292 ON THIRD READING**  
**(Counts - House Sponsor)**

**SB 1292**, A bill to be entitled An Act relating to the licensing of agents for the sale of credit insurance.

A record vote was requested.

**SB 1292** was passed by (Record 558): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Olivo; Palmer; Patterson; Pickett; Pitts; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Serna; Shields; Siebert; Smith; Smithee; Solis; Solomons;

Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Place.

Absent — Bailey; Farrar; Oliveira; Wolens.

### STATEMENT OF VOTE

When Record No. 558 was taken, I was in the house but away from my desk. I would have voted yes.

Wolens

### SB 633 ON THIRD READING (Uher - House Sponsor)

**SB 633**, A bill to be entitled An Act relating to assessments performed before agency adoption of certain environmental rules.

**SB 633** was passed.

### SB 1581 ON THIRD READING (Hartnett - House Sponsor)

**SB 1581**, A bill to be entitled An Act relating to registration of and reporting by certain charitable organizations; providing penalties.

#### Amendment No. 1

Representative Hartnett offered the following amendment to **SB 1581**:

Amend on third reading **SB 1581**, as amended on second reading, as follows:

(1) In the section of the bill entitled REGISTRATION, in Subsection (a), strike "voluntarily".

(2) In the section of the bill entitled REGISTRATION, in Subsection (b), strike "that registers with the attorney general".

(3) In the section of the bill entitled REGISTRATION, add Subsection (f) to read as follows:

(f) A volunteer that has been authorized to solicit on behalf of a charitable organization is not required to register under this Act.

(4) In the section of the bill entitled RECORDKEEPING; AUDIT POWERS OF ATTORNEY GENERAL, in Subsection (a), strike "that files" and substitute "required to file".

(5) In the section of the bill entitled RECORDKEEPING; AUDIT POWERS OF ATTORNEY GENERAL, in Subsection (a), strike "filed with the attorney general" and substitute "required by this Act".

(6) Insert the following appropriately numbered sections:

SECTION \_\_\_\_\_. DEFINITIONS. In this Act:

(1) "Charitable organization" means a person, other than a governmental law enforcement agency or organization, who solicits contributions or funds and is or holds himself, herself, or itself out to be

established or operating for a charitable purpose relating to law enforcement, including nongovernmental law enforcement organizations, nongovernmental law enforcement publications, and survivors of law enforcement officers who are killed in the line of duty.

(2) "Commercial telephone solicitor" means a person who is retained by a charitable organization to solicit contributions or funds by telephone, whether done individually or through another person under the direction of the commercial telephone solicitor. The term does not include a bona fide employee, officer, director, or volunteer of a charitable organization.

(3) "Contribution" means the promise to give or the gift of money, credit, property, financial assistance, or other thing of any kind or value, except volunteer services. The term does not include bona fide fees, dues, or assessments paid by members if the membership is not conferred solely as consideration for making a contribution in response to a telephone solicitation.

(4) "Knowingly" means with actual awareness, but actual awareness may be inferred if objective manifestations indicate that a person acted with actual awareness.

(5) "Person" means an individual, partnership, corporation, association, or other legal entity.

(6) "Telephone solicitation" means the use of a telephone to solicit another person to make a charitable contribution to an organization.

SECTION \_\_\_\_\_. REGISTER TO BE MAINTAINED. (a) The attorney general shall establish and maintain a register of charitable organizations subject to this Act.

(b) All documents required to be filed with the attorney general under this Act are public information and shall be available to the public under the open records law, Chapter 552, Government Code, except those documents that identify the donors of a charitable organization, which information is confidential and is not subject to disclosure.

SECTION \_\_\_\_\_. BOND. A commercial telephone solicitor shall post a surety bond with the secretary of state in the amount of \$50,000 issued by a surety company authorized to do business in this state.

SECTION \_\_\_\_\_. NOTIFICATION OF NONCOMPLIANCE. (a) A charitable organization that is not in compliance with this Act shall be notified of noncompliance by the attorney general by first class mail at the organization's last reported address. Noncompliance includes failure to file any documents required by this Act or the filing of incomplete or inaccurate documents.

(b) A charitable organization violates this Act if the organization:

(1) fails to file complete documents within 30 days after the date the notice required by Subsection (a) of this section has been mailed; or

(2) knowingly files materially inaccurate documents.

SECTION \_\_\_\_\_. REGISTRATION DOES NOT IMPLY ENDORSEMENT. Registration under this Act does not imply endorsement by this state or the attorney general, and charitable organizations are prohibited from stating or implying to the contrary.

SECTION \_\_\_\_\_. REMEDIES. (a) The attorney general may institute an action for failure to fully and accurately comply with this Act and may obtain injunctive relief to restrain a person from continuing a violation, cancellation or suspension of the registration, an order restraining the person from doing

business in this state while violating this Act, a civil penalty of not more than \$25,000 per violation, or injunctive relief and a civil penalty. A person who violates an injunction issued under this section is liable to the state for civil penalty of not less than \$100,000.

(b) The remedies authorized by this Act are not exclusive but are in addition to any other procedure or remedy provided for by other statutory or common law.

(c) In any proceeding successfully prosecuted by the attorney general under this Act, the court may allow the attorney general to recover civil penalties and the reasonable costs, expenses, and attorney's fees incurred in bringing the suit.

SECTION \_\_\_\_\_. DEDICATION OF FEES AND CIVIL PENALTIES. In addition to other money, all fees assessed under this Act and all recovered expenses incurred in obtaining injunctive relief and administrative and civil penalties authorized by this Act are dedicated for use by the attorney general in enforcing and administering this Act. Recovered expenses include investigative costs, witness fees, attorney's fees, and deposition expenses.

SECTION \_\_\_\_\_. VENUE. An action under this Act shall be brought in a court of competent jurisdiction in Travis County, in the county which the charitable organization has its principal place of business or has a fixed and established place of business at the time the suit is brought, or in the county in which the solicitation occurred.

SECTION \_\_\_\_\_. NOTICE TO CONTRIBUTORS; PROHIBITION. (a) If less than 90 percent of the contributions or funds collected by a charitable organization or commercial telephone solicitor are paid by the charitable organization or commercial telephone solicitor to a charitable organization, the commercial telephone solicitor shall notify each person solicited by telephone, before accepting a contribution or funds from the person, of the percentage of the contributions or funds that will be paid to the organization for which the contributions or funds are being solicited and the percentage that will be retained by the solicitor. This information shall also be included on any written statement mailed to the contributor.

(b) A charitable organization or commercial telephone solicitor may not make a telephone call to solicit contributions or funds unless the call is made after 9 a.m. and before 7 p.m., Monday through Friday.

SECTION \_\_\_\_\_. PROHIBITED PRACTICES. (a) A person may not commit an unfair or deceptive act or practice in the conduct of solicitations for a charitable organization.

(b) A person may not represent to a person solicited that a contribution is to be used to benefit the survivors of a law enforcement officer killed in the line of duty unless:

(1) 100 percent of the contributions collected are used to benefit those survivors; or

(2) the person solicited is informed in writing of the exact percentage of the contribution that will directly benefit those survivors.

SECTION \_\_\_\_\_. RULES. The attorney general may adopt rules, procedures, and forms that are consistent with and necessary for the proper administration and enforcement of this Act.

SECTION \_\_\_\_\_. TRANSITION. (a) The changes in law made by this Act apply only to a solicitation that takes place on or after the effective date of this



Act. A solicitation that takes place before the effective date of this Act is governed by law in effect on the date of the solicitation, and the former law is continued in effect for that purpose.

(b) A charitable organization engaging in telephone solicitation in this state on the effective date of this Act that is required to register under this Act shall file the organization's initial registration statement required under that section before January 1, 1998.

(7) Renumber the sections of the bill accordingly.

Amendment No. 1 was adopted without objection.

**SB 1581**, as amended, was passed.

**SB 51 ON THIRD READING**  
**(Allen - House Sponsor)**

**SB 51**, A bill to be entitled An Act relating to the forfeiture of good conduct time by certain inmates confined in the institutional division or a transfer facility of the Texas Department of Criminal Justice.

**SB 51** was passed. (The vote was reconsidered on Tuesday, May 27, and **SB 51**, as amended, was passed.)

**SB 181 ON THIRD READING**  
**(Goodman - House Sponsor)**

**SB 181**, A bill to be entitled An Act relating to the parent-child relationship, suits affecting the parent-child relationship, and the protection of children.

**SB 181** was passed.

**SB 266 ON THIRD READING**  
**(Oliveira, Coleman, G. Lewis, Greenberg,**  
**and Dunnam - House Sponsors)**

**SB 266**, A bill to be entitled An Act relating to the establishment of a program in the Texas Department of Commerce to secure certain loans made to small and medium-sized businesses and nonprofit organizations.

**Amendment No. 1**

Representative Greenberg offered the following amendment to **SB 266**:

Amend **SB 266** on third reading as follows:

(1) On page 2, line 22, strike "special" and substitute "dedicated"; and  
(2) On page 2, line 22, strike "state treasury" and substitute "general revenue fund".

Amendment No. 1 was adopted without objection.

**SB 266**, as amended, was passed.

**SB 1512 ON THIRD READING**  
**(Rangel - House Sponsor)**

**SB 1512**, A bill to be entitled An Act relating to the provision of utility service in economically distressed areas.

**SB 1512** was passed.

**SB 143 ON THIRD READING**  
**(Keel - House Sponsor)**

**SB 143**, A bill to be entitled An Act relating to the punishment for the offense of cruelty to animals.

**SB 143** was passed.

**SB 52 ON THIRD READING**  
**(Galloway - House Sponsor)**

**SB 52**, A bill to be entitled An Act relating to the validity of certain orders affecting the parent-child relationship.

**SB 52** was passed.

**SB 497 ON THIRD READING**  
**(McReynolds - House Sponsor)**

**SB 497**, A bill to be entitled An Act relating to certain persons having custody of an adult disabled child.

**SB 497** was passed.

**SB 1120 ON THIRD READING**  
**(Van de Putte - House Sponsor)**

**SB 1120**, A bill to be entitled An Act relating to the interception of wire, oral, or electronic communications, to the use of pen registers and trap and trace devices, and to the civil and criminal consequences of improperly engaging in those activities.

**SB 1120** was passed.

**SB 527 ON THIRD READING**  
**(Talton - House Sponsor)**

**SB 527**, A bill to be entitled An Act relating to prohibiting employment discrimination against certain peace officers for refusing to take a polygraph examination.

A record vote was requested.

**SB 527** was passed by (Record 559): 137 Yeas, 2 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hinojosa; Hirschi; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer;

Patterson; Pickett; Pitts; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Serna; Shields; Siebert; Smith; Smithee; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Nays — Hartnett; Hill.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Place.

Absent — Danburg; Ehrhardt; Hochberg; Jones, J.; Longoria; Moreno; Price; Solis.

### STATEMENTS OF VOTE

I was shown voting yes on Record No. 559. I intended to vote no.

Galloway

When Record No. 559 was taken, I was in the house but away from my desk. I would have voted yes.

Longoria

When Record No. 559 was taken, I was in the house but away from my desk. I would have voted yes.

Solis

### SB 474 ON THIRD READING (Delisi - House Sponsor)

**SB 474**, A bill to be entitled An Act relating to the payment of resident tuition and fees at state institutions of higher education by children and spouses of certain military personnel and by certain former military personnel and their children and spouses.

A record vote was requested.

**SB 474** was passed by (Record 560): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culbertson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Edwards; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Puente;

Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Rhodes; Roman; Sadler; Seaman; Serna; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C); Reyna, E.

Absent, Excused — Place.

Absent — Dutton; Ehrhardt; Hernandez; Price.

### **LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on **HB 1550**:

Williams on motion of Staples.

### **SB 1137 ON THIRD READING (Hilderbran and Krusee - House Sponsors)**

**SB 1137**, A bill to be entitled An Act relating to the authority of certain municipal utility districts to select the municipality in whose extraterritorial jurisdiction the district is located and to validating and confirming certain acts of municipal utility districts.

A record vote was requested.

**SB 1137** was passed by (Record 561): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Serna; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Place.

Absent, Excused, Committee Meeting — Williams.

Absent — Danburg; Ehrhardt; Price.

**SB 670 ON THIRD READING**  
**(Staples - House Sponsor)**

**SB 670**, A bill to be entitled An Act relating to adoption incentives for licensed child-placing agencies.

**SB 670** was passed.

**SB 436 ON THIRD READING**  
**(R. Lewis - House Sponsor)**

**SB 436**, A bill to be entitled An Act relating to the preservation and restoration of certain public documents filed with a county clerk.

**SB 436** was passed. (Keffer recorded voting no)

**SB 1276 ON THIRD READING**  
**(Oliveira - House Sponsor)**

**SB 1276**, A bill to be entitled An Act relating to permits for overweight vehicles in certain counties.

**SB 1276** was passed.

**SB 1209 ON THIRD READING**  
**(Kubiak - House Sponsor)**

**SB 1209**, A bill to be entitled An Act relating to participation in the proportionate retirement program for public employees.

**SB 1209** was passed.

**SB 1355 ON THIRD READING**  
**(Maxey - House Sponsor)**

**SB 1355**, A bill to be entitled An Act relating to the regulation of retail stores; providing an administrative penalty.

Representative Maxey moved to postpone consideration of **SB 1355** until 3:30 p.m. today.

The motion prevailed without objection.

(Kuempel in the chair)

**COMMITTEE GRANTED PERMISSION TO MEET**

Representative Bosse requested permission for the conference committee on **SB 370** to meet while the house is in session for the remainder of the session.

Permission to meet was granted without objection.

**GENERAL STATE CALENDAR**  
**SENATE BILLS**  
**SECOND READING**

The following bills were laid before the house and read second time:

**CSSB 1454 ON SECOND READING**  
**(Hill - House Sponsor)**

**CSSB 1454**, A bill to be entitled An Act relating to the validation of governmental act or proceeding of a municipality.

Representative Thompson raised a point of order against further consideration of **CSSB 1454** under Rule 4, Section 32(b)(6) of the House Rules on the grounds that the committee report form does not accurately reflect the vote by which the bill was reported.

The point of order was withdrawn.

### **Amendment No. 1**

Representative Crabb offered the following amendment to **CSSB 1454**:

Amend **CSSB 1454** in SECTION 1 of the bill by adding a new Section 3 to Article 974d-45, Revised Statutes, to read as follows:

Sec. 3. (a) This section applies only to a tract of contiguous territory:

(1) that is purportedly annexed on or after December 1, 1996, by a municipality with a population of more than 1.5 million; and

(2) in which an election approving the annexation has not been held.

(b) The annexation of territory to which this section applies is validated, but only if a majority of the voters residing in the territory voting at an election held for that purpose approve the validation of the annexation.

(c) The county in which the tract is located shall hold an election on the validation of the annexation of the tract by the municipality. The county judge shall order the election to be held on the first uniform election date that occurs at least 45 days after the effective date of this section.

(d) Only a registered voter residing in the tract may vote in the election. The municipality that purportedly annexed the tract shall pay for the cost of holding the election.

(e) At the election the ballots shall be prepared to permit voting for or against the following proposition: "The validation of the annexation of (name of tract) by the City of (name of city)." The county shall designate the name of the tract based on a name commonly used in the region to identify the tract.

(f) If a majority of the votes cast at the election favor the proposition, the annexation is validated, the tract remains a part of the municipality, and another election regarding the validation of the annexation of the tract may not be held under this section.

(g) If less than a majority of the votes cast at the election favor the proposition, the annexation is invalidated and any municipal utility district or other special district that served the tract on the date of the attempted annexation and that was abolished as a result of the annexation is reestablished on the date of the canvass of the election. The officers of a reestablished district who were serving on the date the tract was attempted to be annexed are the officers of the reestablished district. If an officer's term has expired, the officer shall serve until the officer's successor is qualified, and a successor shall be elected or appointed in a timely manner in accordance with the law governing the district.

(h) The municipality may not reannex any portion of a tract the annexation of which is invalidated under this section unless the reannexation is approved at an election conducted by the municipality in the area to be annexed. The reannexation may not occur unless a majority of the votes cast in the area approve the reannexation.

(i) Not later than the 10th day after the date an annexation is invalidated under this section, an arbitration panel shall be appointed. The panel is composed of:

(1) one person chosen by the municipality;

(2) one person chosen by the affirmative vote of a representative of each municipal utility or other special district serving the tract that was the subject of the election; and

(3) one person chosen jointly by the persons chosen under Subdivisions (1) and (2), or if an agreement cannot be reached on a choice, one person appointed by the county judge of the county in which the tract is located.

(j) The arbitration panel shall conduct an accounting of all expenses the municipality and each municipal utility district and other special district incurred during and immediately after the period of purported annexation, including an accounting of the assets and obligations of the special districts at the time of the purported annexation and the capital expenditures of the municipality on behalf of the tract during the time the tract was purportedly a part of the municipality. Not later than the 120th day after the date of the election, the arbitration panel shall render a decision on whether the municipality or special districts are entitled to compensation from the other.

(k) A decision of the arbitration panel is reviewable in the district court of the county under the substantial evidence rule. If the arbitrators are unable to reach a majority decision, the municipality or an affected district may file an original action for an accounting under Subsection (j) in the district court of the county in which the tract is located.

(l) Except as provided by this section, Chapter 171, Civil Practice and Remedies Code, applies to an arbitration under this section.

(m) In this section, a tract of land is considered to be located in the county in which a majority of the area of the tract is located.

(n) If the tract is located in more than one county the county judge of each county in which the tract is located shall, under Subsection (c), call an election to be held in the part of the tract that is located in the county in which the county judge serves.

(o) If an election is called under Subsection (n) in more than one county, the county judge of the county in which a majority of the area of the tract is located shall, after the election returns are canvassed in each county, combine the election returns to determine if the annexation of the tract is validated in the tract as a whole.

Representative Danburg raised a point of order against further consideration of Amendment No. 1 under Rule 11, Section 3 of the House Rules and Article III, Section 30 of the Texas Constitution on the grounds that the amendment changes the original purpose of the bill.

The chair sustained the point of order, speaking as follows:

Representative Danburg raises a point of order against further consideration of the amendment to **CSSB 1454** under Rule 11, Section 3, and Article III, Section 30, Texas Constitution, in that the amendment changes the original purpose of the bill.

**CSSB 1454** is the general validation act for municipal actions that have occurred since the 74th Legislature. The amendment would establish a process by which certain municipal acts may be invalidated by a local vote. As a result, the purpose of the amendment is opposite to the purpose of the bill, and would change the bill's original purpose.

Accordingly, the point of order is well-taken and sustained.

The ruling precluded further consideration of the amendment.

Representative Hill moved to postpone consideration of **CSSB 1454** until 6 p.m. today.

The motion prevailed without objection.

#### **CSSB 805 ON SECOND READING (R. Lewis - House Sponsor)**

**CSSB 805**, A bill to be entitled An Act relating to the regulation of the practice of plumbing; providing penalties.

Representative Grusendorf raised a point of order against further consideration of **CSSB 805** under Rule 4, Section 32(c)(4) of the House Rules on the grounds that rulemaking authority is also granted in Section 11 of the bill, but the rulemaking authority statement in the bill analysis fails to identify that section.

The chair sustained the point of order.

The bill was returned to the committee on Licensing and Administrative Procedures.

#### **CSSB 1873 ON SECOND READING (Hochberg - House Sponsor)**

**CSSB 1873**, A bill to be entitled An Act relating to public school finance, including the abolition of the foundation school fund budget committee.

##### **Amendment No. 1**

Representative Hochberg offered the following amendment to **CSSB 1873**:

Amend **CSSB 1873** in SECTION 11 of the bill, in amended Section 42.102(b), Education Code (house committee report, page 6, line 9), by striking "January 1, 1997" and substituting "March 26, 1997".

Amendment No. 1 was adopted without objection.

##### **Amendment No. 2**

Representative Hochberg offered the following amendment to **CSSB 1873**:

Amend **CSSB 1873** by striking SECTION 18 of the bill (House Committee Report, page 10, line 16, through page 11, line 4) and substituting the following:

SECTION 18. Section 45.003(e), Education Code, is amended to read as follows:

(e) Before issuing bonds, a district must demonstrate to the attorney general with respect to the proposed issuance that the district has a projected ability to pay the principal of and interest on the proposed bonds and all previously



issued bonds other than bonds authorized to be issued at an election held on or before April 1, 1991, and issued before September 1, 1992, from a tax at a rate not to exceed \$0.50 per \$100 of valuation. A district that demonstrates to the attorney general that the district's ability to comply with this subsection is contingent on receiving state assistance may not adopt a tax rate for a year for purposes of paying the principal of and interest on the bonds unless the district credits to the account of the interest and sinking fund of the bonds the amount of state assistance received or to be received in that year.

Amendment No. 2 was adopted without objection.

### **Amendment No. 3**

Representative Stiles offered the following amendment to **CSSB 1873**:

Amend **CSSB 1873** by inserting the following new section, appropriately numbered, and renumbering the subsequent sections accordingly:

SECTION \_\_\_\_\_. Section 96.707, Education Code, is amended by adding Subsection (k) to read as follows:

(k) For each student enrolled in the academy, the academy is entitled to allotments from the Foundation School Program under Chapter 42 as if the academy were a school district, except that the academy has a local share applied that is equivalent to the local fund assignment of the Beaumont Independent School District.

Amendment No. 3 was adopted without objection.

### **Amendment No. 4**

Representative Heflin offered the following amendment to **CSSB 1873**:

**CSSB 1873** is amended by adding a new SECTION 5 and renumbering the following sections accordingly:

SECTION 5. Section 29.203, Education Code, is amended by adding (f) to read as follows:

(f) Notwithstanding any other provision of this code, once a student eligible for a public education grant under this subchapter is rejected for enrollment by a public school, that student may attend a private school selected by the student's parent or guardian. The private school the student attends shall report the student's attendance to the district in which the student resides and shall receive compensation for services rendered in accordance with reasonable financial rules adopted by the Commissioner. The private school may not charge the student, or the student's parent or guardian tuition above the amount of the public education grant. The school district in which the student resides is entitled to the excess of the public education grant over tuition charged by the private school.

Representative Hochberg moved to table Amendment No. 4.

A record vote was requested.

The motion to table prevailed by (Record 562): 76 Yeas, 61 Nays, 2 Present, not voting.

Yeas — Alexander; Alvarado; Bailey; Bonnen; Bosse; Burnam; Chavez; Chisum; Coleman; Cook; Counts; Danburg; Davila; Davis; Driver; Dukes;

Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Farrar; Finnell; Flores; Gallego; Garcia; Giddings; Glaze; Gray; Greenberg; Gutierrez; Hawley; Hernandez; Hightower; Hirschi; Hochberg; Hodge; Jones, D.; Jones, J.; Junell; Keel; King; Lewis, R.; Longoria; Luna; Madden; Maxey; McClendon; McReynolds; Moreno; Naishtat; Oakley; Oliveira; Olivo; Patterson; Pickett; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Rhodes; Sadler; Serna; Solis; Stiles; Telford; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Wise; Yarbrough; Zbranek.

Nays — Allen; Averitt; Brimer; Carter; Christian; Clark; Corte; Crabb; Craddick; Cuellar; Culberson; Delisi; Denny; Elkins; Galloway; Goolsby; Grusendorf; Haggerty; Hamric; Hartnett; Heflin; Hilbert; Hilderbran; Hill; Holzhauser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Kamel; Keffer; Krusee; Kubiak; Lewis, G.; Marchant; Merritt; Moffat; Mowery; Nixon; Palmer; Pitts; Rabuck; Reyna, E.; Roman; Seaman; Shields; Siebert; Smith; Smithee; Solomons; Staples; Talton; Walker; West; Williamson; Wilson; Wohlgemuth; Woolley.

Present, not voting — Mr. Speaker; Kuempel(C).

Absent, Excused — Place.

Absent, Excused, Committee Meeting — Williams.

Absent — Berlanga; Goodman; Hinojosa; McCall; Price; Swinford; Thompson; Wolens.

### STATEMENTS OF VOTE

When Record No. 562 was taken, I was in the house but away from my desk. I would have voted yes.

Hinojosa

When Record No. 562 was taken, I was in the house but away from my desk. I would have voted no.

Swinford

When Record No. 562 was taken, I was in the house but away from my desk. I would have voted yes.

Wolens

### Amendment No. 5

Representative Maxey offered the following amendment to **CSSB 1873**:

Amend **CSSB 1873** as follows:

(1) On page 1, strike lines 9-15, and substitute the following:

"Sec. 42.007. EQUALIZED FUNDING ELEMENTS. (a) The Legislative Budget Board shall adopt rules, subject to appropriate notice and opportunity for public comment, for the calculation for each year of the biennium of the qualified funding elements, in accordance with Subsection (c), [under Section 42.256(c)] necessary to achieve the state policy under Section 42.001.".

(2) On page 1, line 20, strike "may" and substitute "shall".

Amendment No. 5 was adopted without objection.

**Amendment No. 6**

Representative S. Turner offered the following amendment to **CSSB 1873**:

Amend **CSSB 1873** by adding a new Section \_\_\_\_ to read as follows:

SECTION \_\_\_\_\_. SECTION 42.152, Education Code, is amended by amending Subsection (c) and adding Subsections (q) and (r) to read as follows:

(c) Funds allocated under this section, other than an indirect cost allotment established under State Board of Education rule, which may not exceed 15 percent, may [must] be used only in providing compensatory education and accelerated instruction programs under Section 29.081 and may only be spent to improve and enhance programs and services funded under the regular education program. A district's compensatory education allotment may only be used for costs supplementary to the regular program, such as costs for program and student evaluation, instructional materials and equipment and other supplies required for quality instruction, supplemental staff expenses, salary supplements for teachers, smaller class size, and individualized instruction [and the district must account for the expenditure of state funds by program and by campus under existing agency reporting and auditing procedures. Funds allocated under this section, other than the indirect cost allotment, shall only be expended to improve and enhance programs and services funded under the regular education program]. A home-rule school district or an open-enrollment charter school must use funds allocated under Subsection (a) to provide compensator education services but is not otherwise subject to Subchapter C, Chapter 29.

(q) The State Board of Education, with the assistance of the state auditor and the comptroller, shall develop and implement by rule a reporting and auditing system for district and campus expenditures of compensatory education funds to ensure that compensatory education funds, other than the indirect cost allotment, are spent only to supplement the regular program. The commissioner, in the year following an audit of compensatory education expenditures, shall withhold from a district's foundation school fund payment an amount equal to the amount of compensatory education funds the agency determines were not used in compliance with Subsection (c). The commissioner shall release to a district funds withheld under this subsection when the district provides to the commissioner a detailed plan to spend those funds in compliance with Subsection (c).

(r) Subsection (q) applies beginning with the 1998-1999 school year. For the 1997-1998 school year, a school district shall account for the expenditure of funds allocated under Subsection (a) by program and by campus under existing agency reporting and auditing procedures. The board, state auditor, and comptroller shall develop the reporting and auditing system required by Subsection (q) not later than August 1, 1998. This subsection expires September 1, 1999.

(Williams now present)

Representative Heflin moved to table Amendment No. 6.

The motion to table was lost.

Amendment No. 6 was adopted.

**Amendment No. 7**

Representative Garcia offered the following amendment to **CSSB 1873**:

Amend **CSSB 1873** by adding a new Section \_\_\_\_ and renumbering subsequent sections accordingly:

SECTION \_\_\_\_\_. Section 42.153(a), Education Code, is amended to read as follows:

(a) For each student in average daily attendance in a bilingual education or special language program under Subchapter B, Chapter 29, a district is entitled to an annual allotment equal to the adjusted basic allotment multiplied by 0.2 [0.4].

Representative Hochberg moved to table Amendment No. 7.

The motion to table prevailed.

**CSSB 1873**, as amended, was passed to third reading. (Heflin and Howard recorded voting no)

**POSTPONED BUSINESS**

The following bills were laid before the house as postponed business:

**SB 609 ON SECOND READING**  
**(Van de Putte - House Sponsor)**

**SB 609**, A bill to be entitled An Act relating to the regulation of pharmacies and pharmacists; providing a penalty.

**SB 609** was read second time on May 25, postponed until 10 a.m. today, and was again postponed until 3 p.m. today.

**Amendment No. 1**

Representative Van de Putte offered the following amendment to **SB 609**:

Amend **SB 609** by adding the following appropriately numbered SECTION and renumbering the remaining SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 40, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), is amended Subsection (m) to read as follows:

(m) Except as provided by this subsection, drug product selection authorized in this section does not apply to the refill of a prescription for a narrow therapeutic index drug. The board, in consultation with the Texas State Board of Medical Examiners, shall establish, by rule, a list of narrow therapeutic index drugs that are subject to this subsection. A prescription for a narrow therapeutic index drug may be refilled only by using the same drug product by the same manufacturer that the pharmacist last dispensed under the prescription. If a pharmacist does not have the same drug product by the same manufacturer in stock to refill the prescription, the pharmacist may dispense a drug product that is generically equivalent if the pharmacist, before dispensing the generically equivalent drug product, notifies:

(1) the patient, at the time the prescription is dispensed, that a substitution of the prescribed drug product has been made; and

(2) the prescribing practitioner of the drug product substitution by telephone, facsimile, or mail, at the earliest reasonable time, but not later than 72 hours after dispensing the prescription.

**Amendment No. 2**

On behalf of Representative Chisum, Representative Van de Putte offered the following amendment to Amendment No. 1:

Amend the Van de Putte amendment to **SB 609** on page 1, lines 12-15 by striking the sentence beginning with "A prescription" and substituting "A prescription for a narrow therapeutic index drug may be refilled only by using the same drug product by the same manufacturer that the pharmacist last dispensed under the prescription, unless otherwise agreed to by the prescribing physician."

Amendment No. 2 was adopted without objection.

Amendment No. 1, as amended, was adopted without objection.

**SB 609**, as amended, was passed to third reading.

**SB 1355 ON THIRD READING**  
**(Maxey - House Sponsor)**

**SB 1355**, A bill to be entitled An Act relating to the regulation of retail stores; providing an administrative penalty.

**SB 1355** was read third time earlier today and was postponed until 3:30 p.m. today.

**Amendment No. 1**

Representative Grusendorf offered the following amendment to **SB 1355**:

Amend **SB 1355** on Third Reading in SECTION 1, Sec. 403.321(c), as amended by Floor Amendment No. 4, on second reading, by inserting the following after "of" and before the colon: "a representative of".

Amendment No. 1 was adopted without objection.

**Amendment No. 2**

Representative Chavez offered the following amendment to **SB 1355**:

Amend **SB 1355** on 3rd Reading as follows:

- (1) On page 14, line 7, strike "dealer or a" and substitute "[~~a dealer or~~]."
- (2) On page 14, line 11, after the period, insert "A dealer who knowingly violates a provision of Section 3, 3A, 3B, 4, 5, or 5A of this Act forfeits to the state a civil penalty of not less than \$25 or more than \$500."

Amendment No. 2 was adopted without objection.

**SB 1355**, as amended, was passed. (Heflin recorded voting no)

**CSSB 1898 ON SECOND READING**  
**(Junell - House Sponsor)**

**CSSB 1898**, A bill to be entitled An Act relating to making emergency appropriations.

**CSSB 1898** was read second time earlier today and was postponed until 5 p.m. today.

Representative Junell moved to postpone consideration of **CSSB 1898** until 10 a.m. Tuesday, May 27.

The motion prevailed without objection.

**GENERAL STATE CALENDAR**  
**(consideration continued)**

**SB 581 ON SECOND READING**  
**(Junell - House Sponsor)**

**SB 581**, A bill to be entitled An Act relating to the cost of operation and administration of the state lottery.

**Amendment No. 1**

Representative Burnam offered the following amendment to **SB 581**:

Amend **SB 581** as follows:

In SECTION 1 of the bill, in Section 466.355(b)(2), Government Code (engrossed version, page 1, line 14), between "biennium" and the semicolon, insert "and as long as the payment is not used to purchase a televised advertisement of 30 seconds or more unless the advertisement includes in a clear and conspicuous manner the toll-free "800" number established by the Texas Commission on Alcohol and Drug Abuse under Section 461.018, Health and Safety Code".

Amendment No. 1 was adopted without objection.

(Speaker in the chair)

**SB 581**, as amended, was passed to third reading.

**MESSAGES FROM THE SENATE**

Messages from the senate were received at this time (see the addendum to the daily journal, Messages from the Senate, Message Nos. 2 and 3).

**SB 453 ON SECOND READING**  
**(Gallego - House Sponsor)**

**SB 453**, A bill to be entitled An Act relating to the appeal of certain interlocutory orders.

**SB 453** was passed to third reading.

**CSSB 133 ON SECOND READING**  
**(Dutton - House Sponsor)**

**CSSB 133**, A bill to be entitled An Act relating to discipline of students in public schools.

**Amendment No. 1**

Representative Dutton offered the following amendment to **CSSB 133**:

Amend **CSSB 133** as follows:

On page 3, line 8, between "violation" and the "period" insert the following:

"prior to taking a disciplinary action under this chapter."

Amendment No. 1 was adopted without objection.

**Amendment No. 2**

Representative Dutton offered the following amendment to **CSSB 133**:

Amend **CSSB 133** as follows:

On page 5, line 7, add the following sentence:

"Any service by a student under this section must be consistent with confidentiality requirements imposed by state and federal law."

Amendment No. 2 was adopted without objection.

**Amendment No. 3**

Representative Dutton offered the following amendment to **CSSB 133**:

Amend **CSSB 133** as follows:

On page 7, line 22, strike the entire sentence, beginning with the word "the" and ending with the word "person" and substituting the following:

A district shall adopt a policy regarding the conduct, dispensing and possession of medication issued to a student under a physician's prescription which allows a student access to medication as directed by the prescription.

Amendment No. 3 was adopted without objection.

**Amendment No. 4**

Representative Dutton offered the following amendment to **CSSB 133**:

Amend **CSSB 133** as follows:

On page 8, line 23, between the words "offense" and "while," add the following:

"as defined in the Student Code of Conduct."

Amendment No. 4 was adopted without objection.

**Amendment No. 5**

Representative Dutton offered the following amendment to **CSSB 133**:

Amend **CSSB 133** as follows:

On page 11, between lines 21 and 22, add a new section:

(d) A conference under this section is not required if a student is expelled and provided a hearing under Section 37.013.

Amendment No. 5 was adopted without objection.

**Amendment No. 6**

Representative Dutton offered the following amendment to **CSSB 133**:

Amend **CSSB 133** as follows:

(1) In SECTION 1 of the bill, in added Section 37.007(d), Education Code (house committee report, page 8, line 1), strike "A" and substitute "Except as otherwise provided by Section 37.010, a".

(2) In SECTION 1 of the bill, in added Section 37.010, Education Code (house committee report, page 16, between lines 3 and 4), insert the following:

(j) Notwithstanding Section 37.007, a student who engages in conduct for which a student is required to be placed into a district alternative education

setting under that section and who is not required to attend school under Section 25.085 may be expelled.

(3) In SECTION 1 of the bill, in added Section 37.011(e), Education Code (house committee report, page 17, line 13), after "student", insert "who is required to attend school under Section 25.085".

(4) In SECTION 1 of the bill, in added Section 37.011(e), Education Code (house committee report, page 17, line 16), between "student" and "who", insert "who is required to attend school under Section 25.085 and".

Amendment No. 6 was adopted without objection.

#### **Amendment No. 7**

Representative Dutton offered the following amendment to **CSSB 133**:

Amend **CSSB 133** as follows:

On page 20, line 6 of the bill, amend Section 37.012(d) as follows:  
strike the word "history" and replace it with the words "social studies"

Amendment No. 7 was adopted without objection.

#### **Amendment No. 8**

Representative Dutton offered the following amendment to **CSSB 133**:

Amend **CSSB 133** as follows:

On page 30, line 16 strike "enrolled" and insert assigned.

Amendment No. 8 was adopted without objection.

#### **Amendment No. 9**

Representative Dutton offered the following amendment to **CSSB 133**:

Amend **CSSB 133** as follows:

On page 37, line 13, amend Section 37.023 by deleting the period and adding the following after the word "subchapter":

and shall provide each teacher with training and written procedures for implementing the student code of conduct as specified in Section 37.003.

Amendment No. 9 was adopted without objection.

#### **Amendment No. 10**

Representative Goodman offered the following amendment to **CSSB 133**:

Amend **CSSB 133** as follows:

(1) In SECTION 1 of the bill, in added Section 37.012(a)(2), Education Code (house committee report, page 19, lines 7-8), strike "Subsection (c), (d), (f), or (g)" and substitute "Subsection (b), (c), (e), (f), (h), (j), or (l)".

(2) In SECTION 1 of the bill, strike added Section 37.012(b), Education Code (house committee report, page 19, lines 9-26) and substitute the following:

(b) An expelled student who would otherwise be enrolled in a school district located in whole or in part in a county with a population greater than 125,000 shall as soon as practicable attend the county juvenile justice alternative education setting from the date of the expulsion if:

(1) the student is considered a child under Section 51.02(2), Family Code;



(2) the student is expelled for an offense specified under Section 37.010(a), (d), or (e);

(3) the office or official designated by the juvenile court has received information from the school district under Section 37.011(a); and

(4) a disposition of the student's juvenile court case is pending.

(c) In the case of an expelled student described under Subsection (b), the juvenile court shall:

(1) if the student is placed on probation under Section 54.04, Family Code, order the student, as a condition of probation, to continue attending the juvenile justice alternative education setting in the county in which the student would otherwise be enrolled in school from the date of disposition for a period specified by the court, unless the student is placed in a post-adjudication treatment facility or program;

(2) if the student is placed on deferred prosecution under Section 53.03, Family Code, by the court, prosecutor, or probation department, require the student, as a condition of deferred prosecution, to continue attending the juvenile justice alternative education setting for a period not to exceed six months in the county in which the student would otherwise be enrolled in school; and

(3) in determining the length of the placement in the juvenile justice alternative education setting as a condition of court-ordered probation or deferred prosecution, consider the length of the school district's expulsion order for the student.

(d) If, in a county with a population greater than 125,000, a student is expelled from school under Section 37.009 or 37.010(b) or (g), or the school district receives a notice regarding an expelled student under Section 52.041(d), Family Code, the student shall attend an educational program provided by the school district. The school district may provide the program or the school district may contract with a county juvenile board, a private provider, or one or more other school districts to provide the program. The program must comply with Subsections (f), (h), and (i). If the school district contracts with another entity to provide the program, the contract must:

(1) outline the responsibilities of the entity for providing the educational program;

(2) specify the amount and conditions of payments from the school district to the entity;

(3) identify the educational records that must be transferred with a student, to the extent permitted by state and federal law;

(4) establish the circumstances and conditions under which a student may be allowed to remain in the program once the student's expulsion order has expired;

(5) establish services or programs that will allow an expelled student to make an effective transition back to the school district;

(6) establish a plan for the provision of special education services; and

(7) establish procedures for the transfer of academic credit between the program and the district.

(3) In SECTION 1 of the bill, in added Section 37.012(c), Education Code (house committee report, page 19, line 27), strike "(c)" and substitute "(e)".

(4) In SECTION 1 of the bill, in added Section 37.012(d), Education Code (house committee report, page 20, line 2), strike "(d)" and substitute "(f)".

(5) In SECTION 1 of the bill, in added Section 37.012(e), Education Code (house committee report, page 20, line 27), strike "(e)" and substitute "(g)".

(6) In SECTION 1 of the bill, in added Section 37.012(f), Education Code (house committee report, page 21, line 5), strike "(f)" and substitute "(h)".

(7) In SECTION 1 of the bill, in added Section 37.012(f), Education Code (house committee printing, page 21, line 6), strike "(d)" and substitute "(f)".

(8) In SECTION 1 of the bill, in added Section 37.012(f)(2), Education Code (house committee printing, page 21, lines 9-10), strike ", except as necessary to comply with Subsection (g)".

(9) In SECTION 1 of the bill, in added Section 37.012(g), Education Code (house committee printing, page 21, line 11), strike "(g)" and substitute "(i)".

(10) In SECTION 1 of the bill, in added Section 37.012(g), Education Code (house committee printing, page 21, line 11), strike "shall" and substitute "may".

(11) In SECTION 1 of the bill, in added Section 37.012(g), Education Code (house committee printing, page 21, line 15), strike "(f)" and substitute "(h)".

(12) In SECTION 1 of the bill, in added Section 37.012(h), Education Code (house committee printing, page 21, line 19), strike "(h)" and substitute "(j)".

(13) In SECTION 1 of the bill, strike added Sections 37.012(i) and (j), Education Code (house committee report, page 22, line 2, through page 24, line 5), and substitute the following:

(k) Not later than September 1 of each year, in each county with a population greater than 125,000, each school district in the county and the county juvenile board, or a designee of a district or the board, shall jointly develop policies and procedures relating to expelled students placed into the juvenile justice alternative education setting under Subsection (b) or (c). The policies and procedures must:

(1) identify the educational records for an expelled student that must be transferred with the student, to the extent permitted by state and federal law;

(2) establish services or programs that will allow an expelled student to make an effective transition between the student's school district and the juvenile justice alternative education setting;

(3) establish procedures for the transfer of academic credit between the school district and the juvenile justice alternative education setting;

(4) establish procedures for the administration of the assessment instruments required under Subchapter B, Chapter 39; and

(5) establish procedures to implement the transportation services required under Section 37.014.

(l) A school district and the juvenile board may agree that the district may transfer to the juvenile board an amount in addition to appropriated funds received for a student attending a juvenile justice alternative education setting under Subsection (b) or (c).

(14) In SECTION 1 of the bill, in added Section 37.012(k), Education Code (house committee printing, page 24, line 6), strike "(k)" and substitute "(m)".

(15) In SECTION 1 of the bill, in added Section 37.012(l), Education Code (house committee printing, page 24, line 13), strike "(l)" and substitute "(n)".

(16) In SECTION 1 of the bill, in added Section 37.012(m), Education Code (house committee printing, page 24, line 24), strike "(m)" and substitute "(o)".

(17) In SECTION 1 of the bill, strike added Section 37.012(n), Education Code (house committee printing, page 25, lines 2-5).

(18) In SECTION 1 of the bill, in added Section 37.012(o), Education Code (house committee printing, page 25, line 6), strike "(o)" and substitute "(p)".

(19) In SECTION 1 of the bill, in added Section 37.012(o), Education Code (house committee printing, page 25, line 8), between "parent" and the comma, insert "and with the consent of the juvenile board".

(20) In SECTION 1 of the bill, in added Section 37.012(p), Education Code (house committee printing, page 25, line 10), strike "(p)" and substitute "(q)".

(21) In SECTION 1 of the bill, strike added Sections 37.014(b)-(e), Education Code (house committee report, page 27, line 3, through page 29, line 8).

(22) In SECTION 1 of the bill, in added Section 37.014(f), Education Code (house committee printing, page 29, line 9), strike "(f)" and substitute "(b)".

(23) In SECTION 1 of the bill, in added Section 37.014(g), Education Code (house committee printing, page 29, line 13), strike "(g) To the extent not otherwise provided, the" and substitute "(c) The".

(24) In SECTION 1 of the bill, at the end of added Section 37.014(g), Education Code (house committee printing, page 29, line 20), insert the following:

The juvenile court may order, or the school district and the juvenile board by agreement may provide, alternative transportation arrangements.

(25) In SECTION 1 of the bill, in added Section 37.014(h), Education Code (house committee printing, page 29, line 21), strike "(h)" and substitute "(d)".

(26) In SECTION 1 of the bill, in added Section 37.014(i), Education Code (house committee printing, page 30, line 2), strike "(i)" and substitute "(e)".

(27) In SECTION 3 of the bill, in amended Section 25.086(a)(4), Education Code (house committee report, page 60, line 3), strike "attending" and substitute "not required to attend".

(28) In SECTION 8 of the bill, in added Section 52.041(d)(4), Family Code (house committee report, page 64, line 11), following the semicolon, insert "or".

(29) In SECTION 8 of the bill, in added Section 52.041(d)(5), Family Code (house committee report, page 64, line 13), strike "; or" and substitute a period.

(30) In SECTION 8 of the bill, strike added Section 52.041(d)(6), Family Code (house committee report, page 64, lines 14-17).

(31) Strike SECTIONS 9 and 10 of the bill (house committee report, page 65, lines 1-21), and renumber the subsequent sections of the bill accordingly.

Amendment No. 10 was adopted without objection.

**Amendment No. 11**

Representative G. Lewis offered the following amendment to **CSSB 133**:

Amend **CSSB 133** as follows:

(1) In new Section 37.014, insert a new subsection (i) to read as follows:

(i) The juvenile board shall pay the expenses required to educate students required by this chapter to be served in a juvenile justice alternative education setting with funds provided by the Texas Juvenile Probation Commission to the extent funds are appropriated. A county commissioners court shall not be required to provide county funds for the expenses required to provide a juvenile justice alternative education setting.

(2) Renumber subsequent subsections appropriately.

Representative Hochberg moved to table Amendment No. 11.

The motion to table prevailed. (Clark recorded voting no)

**Amendment No. 12**

Representatives Delisi and A. Reyna offered the following amendment to **CSSB 133**:

Amend **CSSB 133** in SECTION 1 of the bill, in added Section 37.003(a)(2), Education Code (house committee report, page 2, line 18), between "expelled" and the period by inserting ", including a provision specifying that a student may be expelled if the student engages in conduct that contains the elements of the offense of assault under Section 22.01(a)(2) or (3), Penal Code".

Amendment No. 12 was adopted without objection.

**Amendment No. 13**

Representative Mowery offered the following amendment to **CSSB 133**:

Amend **CSSB 133** in SECTION 1 of the bill, in new Section 37.005(b)(1), Education Code, (page 5, line 2, House Committee Report Printing), between "shall choose" and "two teachers", by inserting "by secret ballot".

Amendment No. 13 was adopted without objection.

**CSSB 133**, as amended, was passed to third reading.

**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Conference Committee on **HB 1**, 7 p.m. today, senate finance committee room.

**CSSB 486 ON SECOND READING  
(Kubiak and Goolsby - House Sponsors)**

**CSSB 486**, A bill to be entitled An Act relating to the regulation of geologists, geophysicists, and soil scientists; providing an administrative and a criminal penalty.

Representative Grusendorf raised a point of order against further consideration of **CSSB 486** under Rule 4, Section 32(c)(4) of the House Rules on the grounds that the rulemaking authority statement in the bill analysis fails to accurately identify the sections of the bill in which rulemaking authority is granted.

The speaker sustained the point of order.

The bill was returned to the Committee on Licensing and Administrative Procedures.

### LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of a death in the family:

Giddings on motion of Dukes.

### CSSB 583 ON SECOND READING (Craddick - House Sponsor)

**CSSB 583**, A bill to be entitled An Act relating to the construction or repair of facilities by school districts and institutions of higher education.

#### Amendment No. 1

Representatives Craddick, Cuellar, and G. Lewis offered the following amendment to **CSSB 583**:

Amend **CSSB 583** as follows:

(1) On page 3, line 7, strike "44.041" and substitute "44.042".

(2) On page 15, between lines 20 and 21, insert the following:

Sec. 44.041. CONTRACTS FOR FACILITIES: CLASSROOM CONSTRUCTION. (a) A school district located in a county with a population of 1,000,000 or more which proposes to contract for the construction of classroom facilities, other than temporary facilities, shall first estimate the actual or anticipated number of students to be accommodated by the new facilities.

(b) In order to provide the best value for the district in the use of its funds, including reducing the unnecessary construction of classroom facilities, before contracting for the construction of additional classroom facilities, the district shall make available to the parent of any child enrolled in the district a scholarship for the child to attend a private school selected by the parent.

(c) The number of scholarships that can be awarded under this section shall be limited to the district's estimate of the number of students that will be accommodated by the proposed classroom facilities under subsection (a). If there are more applicants than available scholarships, a random method of selection shall be utilized to determine recipients.

(d) The district shall determine the amount of the scholarship, but in no event shall it be less than 80% of the district's average expenditure per pupil for the child's grade level. If the private school tuition is less than the scholarship, the difference shall revert to the district.

(e) The parent may supplement the scholarship to pay for private school tuition that is greater than the scholarship. However, no private school may charge tuition to a child under this section greater than its average tuition for all other students.

(f) A scholarship offered under this section is good until the child graduates from high school or until it is voluntarily surrendered by the parent.

(g) If after evaluating the impact of the scholarships on its classroom needs the district determines that the construction of classroom facilities offers the best value to the district, the district may proceed with the contracting and construction of the classroom facilities proposed under subsection (a) as otherwise authorized by law.

(h) The commissioner shall adopt rules for the implementation of this section.

(3) On page 15, line 21, strike "44.041" and substitute "44.042".

Representative Hochberg raised a point of order against further consideration of Amendment No. 1 under Rule 11, Section 2 of the House Rules on the grounds that the amendment is not germane to the bill.

The speaker sustained the point of order.

The ruling precluded further consideration of the amendment.

**CSSB 583** was passed to third reading.

### **POSTPONED BUSINESS**

The following bill was laid before the house as postponed business:

#### **CSSB 1454 ON SECOND READING (Hill - House Sponsor)**

**CSSB 1454**, A bill to be entitled An Act relating to the validation of governmental act or proceeding of a municipality.

**CSSB 1454** was read second time earlier today and was postponed until 6 p.m. today.

Representative Hill moved to postpone consideration of **CSSB 1454** until 10 a.m., Tuesday, May 27.

The motion prevailed without objection.

#### **GENERAL STATE CALENDAR (consideration continued)**

#### **CSSB 586 ON SECOND READING (Naishtat - House Sponsor)**

**CSSB 586**, A bill to be entitled An Act relating to the creation of the Guardianship Advisory Board.

**CSSB 586** was passed to third reading. (Corte recorded voting no)

#### **SB 1069 ON SECOND READING (Uher - House Sponsor)**

**SB 1069**, A bill to be entitled An Act relating to the release and use of certain personal information from motor vehicle records; providing a criminal penalty.

#### **Amendment No. 1**

Representatives McClendon, Uher, and Greenberg offered the following amendment to **SB 1069**:

Amend **SB 1069** by adding a new section, appropriately numbered, to read as follows and renumbering existing sections accordingly:

SECTION \_\_\_\_\_. Subtitle J, title 7, Transportation Code, is amended by adding Chapter 730 to read as follows:

CHAPTER 730. DISCLOSURE OF PERSONAL INFORMATION  
FROM MOTOR VEHICLE RECORDS

Sec. 730.001. DEFINITIONS. In this chapter:

(1) "Agency" means an agency of this state that compiles or maintains motor vehicle records. The term includes the Department of Public Safety and the Texas Department of Transportation.

(2) "Internet" means the international computer network of federal and non-federal interoperable packet switched data networks or a similar computer bulletin board or computer network accessible to the public.

(3) "Motor vehicle record" means a record that pertains to a motor vehicle operator's or driver's license or permit, motor vehicle registration, motor vehicle title, or identification document issued by an agency or a local governmental entity authorized to issue an identification document. The term includes a driver record maintained by the Department of Public Safety.

(4) "Personal information" means information that identifies an individual, including an individual's photograph or computerized photographic image, social security number, driver identification number, personal identification certificate number, name, address other than the postal routing code, telephone number, and medical or disability information. The term does not include information on vehicular accidents, driving violations, or driver's license status.

Sec. 730.002. RELEASE OF PERSONAL INFORMATION BY AGENCY. Notwithstanding any other law, including Chapter 501, 502, 521, or 522 of this code and Chapter 552, Government Code, an agency is prohibited from providing a person with personal information from the agency's motor vehicle records, unless the person receiving the information is the individual to whom the information pertains or that individual's agent or the person agrees in writing with the agency that the person will not:

(1) disseminate or publish the information on the internet; or

(2) permit another to disseminate or publish the information on the internet.

Sec. 730.003. PUBLICATION OR DISCLOSURE OF PERSONAL INFORMATION ON INTERNET. A person may not publish or disclose on the internet personal information from a motor vehicle record that has been obtained directly or indirectly from an agency without the consent of the individual to whom the information pertains.

Sec. 730.004. CIVIL ENFORCEMENT. A district or county attorney or the attorney general may file suit in a district court to enjoin a violation of this chapter or to compel compliance with this chapter.

Sec. 730.005. CIVIL CAUSE OF ACTION. (a) A person who knowingly discloses or uses personal information from an agency's motor vehicle records in violation of this chapter is liable for damages caused by the disclosure or use in an action brought in a district court by the individual to whom the information relates.

(b) A person who brings a suit under Subsection (a) may recover:

(1) actual damages, or if actual damages are less than \$2,500, actual damages and liquidated damages of not less than \$2,500;

(2) punitive damages, on proof of wilful or reckless disregard of the law;



(3) reasonable attorney's fees and litigation costs; and  
(4) other equitable and preliminary relief that the court finds appropriate.

Sec. 730.006. FALSE STATEMENT TO AGENCY; PENALTY. (a) A person commits an offense if the person makes a false statement or representation to an agency to obtain personal information pertaining to any individual from the agency's motor vehicle records.

(b) An offense under this section is a Class A misdemeanor.

Sec. 730.007. DISSEMINATION OR PUBLICATION OF PERSONAL INFORMATION ON INTERNET PROHIBITED; PENALTY. (a) A person commits an offense if the person:

(1) has access to or is in possession of personal information obtained from an agency's motor vehicle records; and

(2) disseminates or publishes the information on the internet without the consent of the individual to whom the information pertains.

(b) An offense under Subsection (a) is a Class A misdemeanor.

Sec. 730.008. AFFIRMATIVE DEFENSE TO CIVIL ACTION OR PROSECUTION. It is an affirmative defense to an action brought under Section 730.005 or to a prosecution brought under Section 730.007 that the person disclosed or used the personal information of the individual in compliance with and for a purpose authorized by the federal Driver's Privacy Protection Act of 1994 (18 U.S.C. Section 2721 et seq.).

Sec. 730.009. RULES. Each agency to which this chapter applies shall adopt rules to implement and enforce this chapter.

Amendment No. 1 was adopted without objection.

**SB 1069**, as amended, was passed to third reading. (Keel recorded voting yes)

### **CSSB 1814 ON SECOND READING**

**(Junell, Finnell, Seaman, and Walker - House Sponsors)**

**CSSB 1814**, A bill to be entitled An Act relating to modifications of the official cotton growers' boll weevil eradication program.

#### **Amendment No. 1**

Representative Junell offered the following amendment to **CSSB 1814**:

Amend **CSSB 1814** in SECTION 1.03 of the bill (committee printing, page 6, line 3), in amended Section 74.102(11), Agriculture Code, between "methods" and "to" by inserting "including pesticides, natural predator controls, cultural farming practices, and climatic conditions.".

Amendment No. 1 was adopted without objection.

#### **Amendment No. 2**

Representative Junell offered the following amendment to **CSSB 1814**:

Amend **CSSB 1814** in SECTION 1.04 of the bill (committee printing, page 6, line 22), in added Section 74.1021(a), Agriculture Code, between "Castro," and "Floyd,", by inserting "Deaf Smith,".

Amendment No. 2 was adopted without objection.



**Amendment No. 3**

Representative Junell offered the following amendment to **CSSB 1814**:

Amend **CSSB 1814** in SECTION 1.08 of the bill (committee printing, page 13, line 13), in amended Section 74.107(b), Agriculture Code, by inserting between "following" and "for", "board members, selected from a variety of cotton-growing regions of the state.".

Amendment No. 3 was adopted without objection.

**Amendment No. 4**

Representative Junell offered the following amendment to **CSSB 1814**:

Amend **CSSB 1814** in Section 1.09 of the bill (committee printing, page 15, line 5), in amended Section 74.108(b), Agriculture Code, by striking "The commissioner [board] may" and substituting "On petition of 30 percent of the cotton growers eligible to vote within the proposed area, the commissioner may, or at the commissioner's discretion, the commissioner [The board] may,".

Amendment No. 4 was adopted without objection.

**Amendment No. 5**

Representative Junell offered the following amendment to **CSSB 1814**:

Amend **CSSB 1814** in SECTION 1.10 of the bill (committee printing, page 16, lines 3-11), in amended Section 74.109, Agriculture Code, by striking Subsection (a) and substituting the following:

(a) The board shall have [make available for inspection at] an annual independent audit of the [all] books, records of account, and minutes of proceedings maintained by the foundation prepared by an independent certified public accountant or a firm of independent certified public accountants. The audit shall include information for each zone in which an eradication program has been conducted under this subchapter. The audit shall be filed with the board, the commissioner, and the state auditor and shall be made available to the public by the foundation or the commissioner. The state auditor may examine any work papers from the independent audit or may audit the transactions of the foundation if the state auditor determines that an audit is necessary.

Amendment No. 5 was adopted without objection.

**Amendment No. 6**

Representative Junell offered the following amendment to **CSSB 1814**:

Amend **CSSB 1814** by striking SECTION 1.11 (committee printing, page 17, lines 12-27, and page 18, lines 1-7) and substituting the following:

SECTION 1.11. Subchapter D, Chapter 74, Agriculture Code, is amended by adding Section 74.1095 to read as follows:

Sec. 74.1095. ADMINISTRATIVE REVIEW. (a) The commissioner by rule shall establish procedures for the informal review and resolution of a claim arising out of certain acts taken by the foundation under this subchapter. Rules established under this section shall include a designation of the acts that are

subject to review under this subsection and the appropriate remedial action, as authorized by this subchapter.

(b) A person dissatisfied with the department's informal resolution of a claim under procedures adopted under Subsection (a) may appeal the department's decision to the commissioner.

(c) A decision issued by the commissioner on a claim appealed under Subsection (b) is the final administrative action of the department and is subject to judicial review under Chapter 2001, Government Code.

(d) This section does not constitute a waiver of the state's immunity from liability.

Amendment No. 6 was adopted without objection.

#### **Amendment No. 7**

Representative Flores offered the following amendment to **CSSB 1814**:

Amend **CSSB 1814** as follows:

(1) Strike SECTION 1.12 of the bill and substitute the following:

SECTION 1.12. Subchapter D, Chapter 74, Agriculture Code, is amended by adding Section 74.1101 to read as follows:

Sec. 74.1101. LIABILITY OF APPLICATORS. (a) In this section, "applicator" means an individual or other person that is not a member, director, officer, or employee of the foundation and that contracts with the foundation to apply pesticides or other chemicals using aircraft or other equipment to further or support the eradication or diapause efforts undertaken under this subchapter.

(b) An applicator is not jointly and severally liable for any act or omission of the foundation under this subchapter provided that the foundation maintains the liability coverage required under Subsection (c).

(c) The foundation shall have liability coverage in effect for any eradication or diapause efforts for which it uses applicators. The coverage shall apply to acts and omissions of the foundation and volunteers and be in the amount of at least \$500,000 for each single occurrence of death, bodily injury, or property damage.

(d) This section expires September 1, 1999.

(2) Add the following section, appropriately numbered, and renumber existing sections appropriately:

SECTION \_\_\_\_\_. Section 74.110, Agriculture Code, is reenacted to read as follows:

Sec. 74.110. LIABILITY OF FOUNDATION MEMBERS, OFFICERS, AND EMPLOYEES. (a) Except for instances of gross negligence, individual criminal actions, or acts of dishonesty, the foundation, the foundation's members, directors, officers, and employees are not individually liable to a cotton grower or other person for:

- (1) errors in judgment;
- (2) mistakes; or
- (3) other acts or omissions.

(b) A foundation member, officer, or employee is not individually liable for an act or omission of another foundation member, officer, or employee.

Amendment No. 7 was adopted without objection.

**Amendment No. 8**

Representative Junell offered the following amendment to **CSSB 1814**:

Amend **CSSB 1814** in SECTION 1.18 of the bill (committee printing, page 28, lines 25-27, and page 29, lines 1-12) in amended Section 74.117, Agriculture Code, by striking the language added at the end of the section and substituting the following:

The department shall give notice by publication of the planned schedule of dates for entry by the department, the foundation, or a designated representative of either entity, to the fields or premises to carry out the purposes of this subchapter, including treatment, monitoring, or inspection functions. The department shall publish notice of the planned schedule to enter the fields or premises in a newspaper of general circulation in the eradication zone not less than once a week for two weeks immediately before the scheduled dates of entry. In addition to the notice published by the department, the foundation shall post notice of the planned schedule to enter fields or premises to carry out the purposes of this subchapter at the county courthouse of each county in the eradication zone not less than 15 days before the planned dates of entry.

Amendment No. 8 was adopted without objection.

**Amendment No. 9**

Representative Junell offered the following amendment to **CSSB 1814**:

Amend **CSSB 1814** as follows:

(1) In SECTION 1.26 of the bill (committee printing, page 37, line 7), in Subsection (b), strike "each statutory zone listed in Subsection (a) of this section" and substitute "the South Texas Winter Garden Eradication Zone".

(2) In SECTION 1.26 of the bill (committee printing, page 37, between lines 12-13), insert the following:

(c) Not later than one year after the effective date of this Act, the commissioner of agriculture shall hold a retention referendum and board election in the Southern Rolling Plains Eradication Zone and the Rolling Plains Central Eradication Zone to determine the continued necessity of an eradication program under Section 74.114, Agriculture Code, as amended by this Act. The retention referendum will be determined by a vote of the majority of the cotton growers voting in the retention referendum.

(3) In SECTION 1.26 of the bill (committee printing, page 37, line 13), strike "(c)" and substitute "(d)".

(4) In SECTION 1.26 of the bill (committee printing, page 37, line 20), strike "(d)" and substitute "(e)".

(5) In SECTION 1.26 of the bill (committee printing, page 38, line 1), strike "(e)" and substitute "(f)".

(6) In SECTION 1.26 of the bill (committee printing, page 38, line 5), strike "(f)" and substitute "(g)".

Amendment No. 9 was adopted without objection.

**Amendment No. 10**

Representative Walker offered the following amendment to **CSSB 1814**:

Amend **CSSB 1814** as follows:

(1) In SECTION 1.26, page 37, line 27, amend subsection (d) by adding the following after "subsection": "In the event the initial referendum required by this subsection is unsuccessful, the commissioner may also hold one referendum under Section 74.114, Agriculture Code, as amended by this Act, in the Southern High Plains-Caprock Eradication Zone during the 1998 calendar year, notwithstanding the provisions of Section 74.105(e) or Section 74.114(h), Agriculture Code."

Amendment No. 10 was adopted without objection.

**CSSB 1814**, as amended, was passed to third reading.

### **POSTPONED BUSINESS**

The following bill was laid before the house as postponed business:

#### **SB 885 ON SECOND READING (Thompson - House Sponsor)**

**SB 885**, A bill to be entitled An Act relating to limitations on certain covenants.

**SB 885** was read second time on May 25, postponed until 11 a.m. today, and was again postponed until 6 p.m. today.

#### **Amendment No. 1**

Representative Solomons offered the following amendment to **SB 885**:

Amend **SB 885** as follows:

(1) Strike SECTION 1 of the bill (House Committee Report, page 1, lines 3-18) and substitute the following:

SECTION 1. Section 15.50, Business & Commerce Code, is amended to read as follows:

Sec. 15.50. CRITERIA FOR ENFORCEABILITY OF COVENANTS NOT TO COMPETE. Notwithstanding Section 15.05 of this code, a covenant not to compete is enforceable if:

(1) it is ancillary to or part of an otherwise enforceable agreement [~~at the time the agreement is made~~] to the extent that it contains limitations as to time, geographical area, and scope of activity to be restrained that are reasonable and do not impose a greater restraint than is necessary to protect the goodwill or other business interest of the promisee; and

(2) the consideration for the covenant is bargained for and not illusory.

(2) Add the following appropriately numbered SECTION to the bill and renumber existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter E, Chapter 15, Business & Commerce Code, is amended by adding Section 15.501 to read as follows:

Sec. 15.501. CONSIDERATION RELATING TO COVENANTS NOT TO COMPETE. (a) A covenant not to compete made after commencement of the underlying agreement must be supported by fair consideration by an employer other than the continuation of the agreement.

(b) The consideration given by the employer in the otherwise enforceable agreement must give rise to the employer's interest in restraining an employee

who has knowledge of the employer's trade secrets or confidential proprietary information from competing.

(c) The covenant must be designed to enforce the employee's consideration or return promise not to disclose the trade secrets or confidential proprietary information in the otherwise enforceable agreement.

(d) In this section, "fair consideration" means a monetary payment of additional compensation and the provision of new and valuable confidential information that fairly and reasonably compensates the employee for accepting the covenant not to compete. The term does not include the mere continuation of an at-will employment relationship or its terms.

Amendment No. 1 was adopted without objection.

**SB 885**, as amended, was passed to third reading.

**GENERAL STATE CALENDAR**  
**(consideration continued)**

**SB 1852 ON SECOND READING**  
**(Hill - House Sponsor)**

**SB 1852**, A bill to be entitled An Act relating to the creation and operation of the Texas Affordable Housing Task Force.

**SB 1852** was passed to third reading.

**POSTPONED BUSINESS**

The following bill was laid before the house as postponed business:

**SB 1232 ON SECOND READING**  
**(McClendon - House Sponsor)**

**SB 1232**, A bill to be entitled An Act relating to conditions for probation and release under supervision for a child adjudicated for engaging in certain delinquent conduct and to certain instruction and treatment for the parent or guardian of the child.

**SB 1232** was read second time on May 25 and was postponed until 4 p.m. today.

Representative McClendon moved to postpone consideration of **SB 1232** until 10 a.m. Tuesday, May 27.

The motion prevailed without objection.

**GENERAL STATE CALENDAR**  
**(consideration continued)**

**SB 1678 ON SECOND READING**  
**(Naishtat - House Sponsor)**

**SB 1678**, A bill to be entitled An Act relating to certain procedures concerning landlords and tenants of residential real property.

**Amendment No. 1**

Representatives Allen, Grusendorf, and Naishtat offered the following amendment to **SB 1678**:

Amend **SB 1678** as follows:

Add the following sentence at the end of Section 24.005(f) in SECTION 2 of **SB 1678**:

If the dwelling has no mailbox and has a keyless bolting device, alarm system, or dangerous animal that prevents the landlord from entering the premises to leave the notice to vacate on the inside of the main entry door, the landlord may securely affix the notice on the outside of the main entry door.

Amendment No. 1 was adopted without objection.

### **Amendment No. 2**

Representative Smith offered the following amendment to **SB 1678**:

Amend **SB 1678** by adding new SECTIONS 12 and 13 (house committee report, page 12, between lines 5 and 6) to read as follows and renumbering subsequent sections of the bill appropriately:

SECTION 12. Section 92.252(a), Property Code, is amended to read as follows:

(a) The duties of a landlord and the remedies of a tenant under this subchapter are in lieu of common law, other statutory law, and local ordinances regarding a residential landlord's duty to install, inspect, or repair a smoke detector in a dwelling unit. However, this subchapter does not:

(1) affect a local ordinance adopted before September 1, 1981, that requires landlords to install smoke detectors in new or remodeled dwelling units before September 1, 1981, if the ordinance conforms with or is amended to conform with this subchapter;

(2) limit or prevent adoption or enforcement of a local ordinance relating to fire safety as a part of a building, fire, or housing code, including any requirements relating to the installation of smoke detectors or the type of smoke detectors; ~~or~~

(3) otherwise limit or prevent the adoption of a local ordinance that conforms to this subchapter but which contains additional enforcement provisions, except as provided by Subsection (b); or

(4) affect a local ordinance that requires regular inspections by local officials of smoke detectors in dwelling units and that requires smoke detectors to be operational at the time of inspection.

SECTION 13. Section 3(a), Article 5.43-2, Insurance Code, is amended to read as follows:

(a) The provisions of this article and the rules and regulations promulgated under this article shall have uniform force and effect throughout the state and no municipality or county shall enact any ordinances, rules, or regulations inconsistent with the provisions of this article or rules and regulations promulgated pursuant to this article and any such ordinances, rules, or regulations are void and shall have no effect; provided, however, that a municipality or county shall have the right to:

(1) mandate that a fire alarm or detection system be installed in certain facilities, so long as said installation conforms to applicable state law; ~~and~~

(2) require a better type of alarm or detection system or otherwise safer conditions than the minimum required by state law; and

(3) require regular inspections by local officials of smoke detectors in dwelling units, as defined by Section 92.251, Property Code, and require the smoke detectors to be operational at the time of inspection.

(Place now present)

Amendment No. 2 was adopted without objection.

**SB 1678**, as amended, was passed to third reading. (Patterson and Shields recorded voting no)

**SB 17 ON SECOND READING**  
**(Place - House Sponsor)**

**SB 17**, A bill to be entitled An Act relating to the powers and duties of county hospital authorities.

**SB 17** was passed to third reading.

**CSSB 86 ON SECOND READING**  
**(Marchant, Hill, Kamel, Smithee,**  
**and Hupp - House Sponsors)**

**CSSB 86**, A bill to be entitled An Act relating to parental notification before an abortion may be performed on certain minors.

Representative Marchant moved to postpone consideration of **CSSB 86** until 10 a.m. Tuesday, May 27.

The motion prevailed without objection.

(Edwards in the chair)

**SB 1857 ON SECOND READING**  
**(Chisum - House Sponsor)**

**SB 1857**, A bill to be entitled An Act relating to transferring certain responsibilities of the Texas Natural Resource Conservation Commission related to certain radioactive materials to the Texas Department of Health.

(Speaker in the chair)

**SB 1857** was passed to third reading.

**CSSB 149 ON SECOND READING**  
**(Cuellar - House Sponsor)**

**CSSB 149**, A bill to be entitled An Act relating to performance evaluation of tenured faculty at certain institutions of higher education.

**Amendment No. 1**

Representative Dunnam offered the following amendment to **CSSB 149**:

Amend **CSSB 149** at Page 4, Line 4, by deleting "post-tenure evaluation" and substituting "performance evaluation of tenured faculty".

Amendment No. 1 was adopted without objection.

**CSSB 149**, as amended, was passed to third reading. (Kubiak recorded voting no)

**CSSB 259 ON SECOND READING**  
**(Brimer - House Sponsor)**

**CSSB 259**, A bill to be entitled An Act relating to the regulation of roofing contractors; providing penalties.

Representative Talton raised a point of order against further consideration of **CSSB 259** under Rule 4, Section 32(c)(4) of the House Rules on the grounds that the rulemaking authority statement in the bill analysis fails to accurately identify the sections of the bill in which rulemaking authority is granted.

The speaker sustained the point of order.

The bill was returned to the Committee on Licensing and Administrative Procedures.

**SB 839 ON SECOND READING**  
**(Danburg - House Sponsor)**

**SB 839**, A bill to be entitled An Act relating to allowing a governmental body to hold a meeting by videoconference call under certain circumstances.

**Amendment No. 1 (Committee Amendment No. 1)**

Representative Danburg offered the following committee amendment to **SB 839**:

Amend **SB 839** as follows:

(1) In SECTION 2 of the bill, strike Subsection (b) of Section 551.126, Government Code (senate engrossment, page 1, lines 14-16), and substitute the following:

(b) A meeting may be held by videoconference call only if a quorum of the governmental body is physically present at one location of the meeting.

(2) In SECTION 2 of the bill, in the first sentence of Subsection (d) of Section 551.126, Government Code (senate engrossment, page 1, line 22), strike "meetings of the governmental body are usually held" and substitute "a quorum of the governmental body will be physically present and specify the intent to have a quorum present at that location".

(3) In SECTION 2 of the bill, in the second sentence of Subsection (d) of Section 551.126, Government Code (senate engrossment, page 2, line 1), between "each" and "location where", insert "other".

(4) In SECTION 2 of the bill, add the following new Subsection (j) to Section 551.126, Government Code (senate engrossment, page 3, between lines 6 and 7):

(j) Without regard to whether a member of the governmental body is participating in a meeting from a remote location by videoconference call, a governmental body may allow a member of the public to testify at a meeting from a remote location by videoconference call.

Amendment No. 1 was adopted without objection.

**SB 839**, as amended, was passed to third reading.

**SB 861 ON SECOND READING**  
**(Holzhauser - House Sponsor)**

**SB 861**, A bill to be entitled An Act relating to the administration of franchise taxes; imposing penalties.



**Amendment No. 1**

Representative Telford offered the following amendment to **SB 861**:

Amend **SB 861** as follows: Strike SECTIONS 7 and 15 and substitute the following:

SECTION 7 Section 171.106, Tax Code, is amended to read as follows:

(a) Except as provided by Subsections (c) and (d), a corporation's taxable capital is apportioned to this state to determine the amount of the tax imposed under Section 171.002(b)(1) by multiplying the corporation's taxable capital by a fraction, the numerator of which is the corporation's gross receipts from business done in this state, as determined under Section 171.103 or 171.1031, as applicable, and the denominator of which is the corporation's gross receipts from its entire business, as determined under Section 171.105.

(b) Except as provided by Subsections (c) and (d), a corporation's taxable earned surplus is apportioned to this state to determine the amount of tax imposed under Section 171.002(b)(2) by multiplying the taxable earned surplus by a fraction, the numerator of which is the corporation's gross receipts from business done in this state, as determined under Section 171.1031 or 171.1032, as applicable, and the denominator of which is the corporation's gross receipts from its entire business, as determined under Section 171.1051.

(c) A corporation's taxable capital or earned surplus that is derived, directly or indirectly, from the sale of management, distribution, or administration services to or on behalf of a regulated investment company, including a corporation that includes trustees or sponsors of employee benefit plans that have accounts in a regulated investment company, is apportioned to this state to determine the amount of the tax imposed under Section 171.002 by multiplying the corporation's total taxable capital or earned surplus from the sale of services to or on behalf of a regulated investment company by a fraction, the numerator of which is the average of the sum of shares owned at the beginning of the year and the sum of shares owned at the end of the year by the investment company shareholders who are commercially domiciled in this state or, if the shareholders are individuals, are residents of this state and the denominator of which is the average of the sum of shares owned at the beginning of the year and the sum of shares owned at the end of the year by all investment company shareholders. The corporation shall make a separate computation to allocate taxable capital and earned surplus. In this subsection, "regulated investment company" has the meaning assigned by Section 851 (a), Internal Revenue Code.

(d) A corporation's taxable capital or taxable earned surplus that is derived, directly or indirectly, from the sale of management, administration, or investment services to an employee retirement plan is apportioned to this state to determine the amount of the tax imposed under Section 171.002 by multiplying the corporation's total taxable capital or earned surplus from the sale of services to an employee retirement plan company by a fraction, the numerator of which is the average of the sum of beneficiaries domiciled in Texas at the beginning of the year and the sum of beneficiaries domiciled in Texas at the end of the year, and the denominator of which is the average of the sum of all beneficiaries at the beginning of the year and the sum of all

beneficiaries at the end of the year. The corporation shall make a separate computation to apportion taxable capital and earned surplus. In this Section, "employee retirement plan" means a plan or other arrangement that is qualified under Section 401 (a), Internal Revenue Code or satisfies the requirements of Section 403, Internal Revenue Code, or a government plan described in Section 414 (d), Internal Revenue Code. The term does not include an individual retirement account or individual retirement annuity within the meaning of Section 408, Internal Revenue Code.

(e) On or before January 1, 1998, each entity registered with State Securities Board under Art. 581, V.A.T.C.S. that provides management, administration, or investment services to an employee retirement plan, must file a report with the comptroller containing such information as the comptroller deems necessary in order to determine the fiscal impact of subsection (d) of this section. The State Securities Board and Commissioner shall cooperate with the comptroller in obtaining the information. The State Securities Commissioner shall impose the penalties as are provided in V.A.T.C.S. Art. 581 against any entity that the comptroller certifies is delinquent in the filing of the report required by this section.

(f) On or before September 1, 1998 the comptroller shall issue a report which evaluates the statewide fiscal impact of Section 171.106(d), Tax Code. If the comptroller determines that implementing Section 171.106(d) will not have a negative fiscal impact to this state, then Section 171.106(d) shall be effective for reports or returns originally due on or after January 1, 1999. If the comptroller determines that there will be a negative fiscal impact, then that subsection shall not be implemented.

(g) If this Act and another Act of the 75th Legislature, Regular Session, 1997, make the same substantive change from the current law but differ in text, this Act prevails regardless of the relative dates of enactment.

SECTION 15 (a) Except as provided by Subsections (b) and (c) of this section, this Act takes effect January 1, 1998, and applies to a report originally due on or after that date.

(b) Section 171.212, Tax Code, as added by this Act, takes effect on the earliest date that it may take effect under Section 39, Article III, Texas Constitution.

(c) Section 171.106(d), Tax Code, as added by this Act, takes effect for all reports originally due on or after the date the comptroller determines that the implementation of Section 171.106(d) will not have a negative fiscal impact on the state, but in no case earlier than January 1, 1999. If the comptroller determines that implementing Section 171.106(d), Tax Code will result in a negative fiscal impact, then that subsection has no effect.

Amendment No. 1 was adopted without objection.

**SB 861**, as amended, was passed to third reading.

### **SB 862 ON SECOND READING** **(Holzheuser - House Sponsor)**

**SB 862**, A bill to be entitled An Act relating to the administration, collection, and enforcement by the comptroller of various taxes and fees.

**Amendment No. 1 (Committee Amendment No. 1)**

Representative Holzheuser offered the following committee amendment to **SB 862**:

Amend **SB 862** as follows:

Add the following SECTIONS 39 through 43 and renumber the subsequent sections accordingly:

SECTION 39. Sections 403.302(a) through (d), Government Code, are amended to read as follows:

(a) The comptroller shall conduct an annual study using comparable sales and generally accepted auditing and sampling techniques to determine the total taxable value of all ~~taxable~~ property in each school district. The study shall determine the taxable value of all property and of each category of property in the district and the productivity value of all land that qualifies for appraisal on the basis of its productive capacity and for which the owner has applied for and received a productivity appraisal. The comptroller shall make appropriate adjustments in the study to account for actions taken under Chapter 41, Education Code.

(b) In conducting the study, the comptroller shall ~~[review the appraisal standards, procedures, and methodology used by each appraisal district to]~~ determine the taxable value of property in each school district~~[-The review must test the validity of the taxable values assigned to each category of property by the appraisal district]:~~

(1) using, if appropriate, samples selected through generally accepted sampling techniques; and

(2) according to generally accepted standard valuation, statistical compilation, and analysis techniques.

(c) If the comptroller ~~determines [finds]~~ in the annual study that the market value of property in a school district as determined by the appraisal district that appraises property for the school district, less the total of the amounts and values listed in Subsection (d) as determined by that appraisal district, is [generally accepted appraisal standards and practices were used by the appraisal district in valuing a particular category of property, and that the taxable values assigned to each category of property by the appraisal district are] valid, the market ~~[appraisal roll]~~ value of ~~[that category of]~~ property in the school district as determined by the appraisal district that appraises property for the school district, less the total of the amounts and values listed in Subsection (d) as determined by that appraisal district, is presumed to represent taxable value. In the absence of such a presumption, ~~[the comptroller shall estimate the]~~ taxable value is the value determined by the comptroller under Subsection (a) [of that category of property using generally accepted standard valuation, statistical compilation, and analysis techniques].

(d) For the purposes of this section, "taxable value" means the market value of all taxable property less:

(1) the total dollar amount of any residence homestead exemptions ~~[of part but not all of the value of taxable property required by the constitution or a statute that a district]~~ lawfully granted under Section 11.13(b) or (c), Tax Code, in the year that is the subject of the study for each school district;

(2) the total dollar amount of any exemptions granted before May 31, 1993, within a reinvestment zone under agreements authorized by Chapter 312, Tax Code;

(3) the total dollar amount of any captured appraised value of property that is located in a reinvestment zone, generates a tax increment paid into a tax increment fund, and [that] is eligible for tax increment financing under Chapter 311, Tax Code;

(4) the total dollar amount of any exemptions granted under Section 11.251, Tax Code;

(5) the difference between the comptroller's estimate of the market value and the productivity value of land that qualifies for appraisal on the basis of its productive capacity, except that the productivity value estimated by the comptroller may not exceed the fair market value of the land;

(6) the portion of the appraised value of residence homesteads of the elderly on which school district taxes are not imposed in the year that is the subject of the study, calculated as if the residence homesteads were appraised at the full value required by law;

(7) a portion of the market value of property not otherwise fully taxable by the district at market value because of action required by statute or the constitution of this state that, if the tax rate adopted by the district is applied to it, produces an amount equal to the difference between the tax that the district would have imposed on the property if the property were fully taxable at market value and the tax that the district is actually authorized to impose on the property, if this subsection does not otherwise require that portion to be deducted; and

(8) the market value of all tangible personal property, other than manufactured homes, owned by a family or individual and not held or used for the production of income.

SECTION 40. Section 403.303(a), Government Code, is amended to read as follows:

(a) A school district or a property owner whose property is included in the study under Section 403.302 and whose tax liability on the property is \$100,000 or more may protest the comptroller's findings under Section 403.302(f) or (g) by filing a petition with the comptroller. The petition must be filed not later than the ~~40th~~ [30th] day after the date on which the comptroller's findings are certified to the commissioner of education and must specify the grounds for objection and the value claimed to be correct by the school district or property owner.

SECTION 41. Section 5.102, Tax Code, is amended to read as follows:

Sec. 5.102. REVIEW OF APPRAISAL STANDARDS ~~[NONCOMPLIANCE BY APPRAISAL DISTRICT]~~. (a) The comptroller shall review the appraisal standards, procedures, and methodology used by each appraisal district to determine compliance with generally accepted appraisal standards and practices.

(b) If the review ~~[study required by Section 403.302, Government Code,]~~ results in a finding that an appraisal district is not in compliance with generally accepted appraisal standards and practices, the comptroller shall deliver a report that details the comptroller's findings and recommendations for improvement to the appraisal district's chief appraiser and board of directors.

(c) ~~(b)~~ If noncompliance with generally accepted appraisal standards and practices is found in two consecutive reviews ~~[annual studies]~~ and if an affected appraisal district's chief appraiser and board of directors fail to take effective remedial action as determined by the comptroller, the comptroller may appoint a special master who may exercise supervision and control over the operations of the district until full compliance with generally accepted appraisal standards and practices is achieved. The appraisal district shall bear the costs related to the master's supervision and control.

SECTION 42. Section 5.16, Tax Code, is amended to read as follows:

Sec. 5.16. ADMINISTRATIVE PROVISIONS. (a) The comptroller may inspect the records or other materials of an appraisal office or taxing unit, including the relevant records and materials in the possession or control of a consultant, advisor, or expert hired by the appraisal office or taxing unit, for the purpose of:

(1) establishing, reviewing, or evaluating the value of or an appraisal of any property; or

(2) conducting a study, review, or audit required by Section 5.10 or 5.102 or by Section 403.302, Government Code.

(b) On request of the comptroller, the chief appraiser or administrative head of the taxing unit shall produce the materials in the form and manner prescribed by the comptroller ~~[as soon as practicable]~~.

SECTION 43. Section 26.01(b), Tax Code, is amended to read as follows:

(b) When a chief appraiser submits an appraisal roll for county taxes to a county assessor-collector, the chief appraiser ~~[he]~~ also shall certify the appraisal district appraisal roll to the comptroller. However, the comptroller by rule may provide for submission of only a summary of the appraisal roll. The ~~[In that event, the]~~ chief appraiser shall certify the district appraisal roll or the summary of that roll in the form and manner prescribed by the comptroller's rule.

Amendment No. 1 was adopted without objection.

### **Amendment No. 2 (Committee Amendment No. 2)**

Representative Holzheuser offered the following committee amendment to **SB 862**:

Amend **SB 862** as follows:

On page 10, line 25, between "a" and "court", insert "notary public or a".

Amendment No. 2 was adopted without objection.

### **Amendment No. 3 (Committee Amendment No. 3)**

Representative Holzheuser offered the following committee amendment to **SB 862**:

Amend **SB 862** as follows:

Strike SECTION 45 and substitute the following:

SECTION 45. Section 111.0022, Tax Code, as added by Section 3.28, Chapter 685, Acts of the 73rd Legislature, 1993, is repealed.

Amendment No. 3 was adopted without objection.

**Amendment No. 4**

Representative Oliveira offered the following amendment to **SB 862**:

Amend **SB 862** by inserting the following appropriately numbered sections and renumbering existing sections accordingly:

SECTION \_\_\_\_\_. Subchapter A, Chapter 151, Tax Code, is amended by adding Section 151.01032 to read as follows:

Sec. 151.01032. "TELEPHONE PREPAID CALLING CARD". "Telephone prepaid calling card" means a card or other item, including an access code, that represents the right to make one or more telephone calls for which payment is made in incremental amounts and before the call is initiated.

SECTION \_\_\_\_\_. Section 151.009, Tax Code, is amended to read as follows:

Sec. 151.009. "TANGIBLE PERSONAL PROPERTY". "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched or that is perceptible to the senses in any other manner, and, for the purposes of this chapter, the term includes a computer program and a telephone prepaid calling card.

SECTION \_\_\_\_\_. Section 151.0103, Tax Code, is amended to read as follows:

Sec. 151.0103. TELECOMMUNICATIONS SERVICES. For the purposes of this title only, "telecommunications services" means the electronic or electrical transmission, conveyance, routing, or reception of sounds, signals, data, or information utilizing wires, cable, radio waves, microwaves, satellites, fiber optics, or any other method now in existence or that may be devised, including but not limited to long-distance telephone service. The term does not include:

(1) the [The] storage of data or information for subsequent retrieval or the processing, or reception and processing, of data or information intended to change its form or content; or

(2) the sale or use of a telephone prepaid calling card. [are not included in "telecommunications services."]

Amendment No. 4 was adopted without objection.

**Amendment No. 5**

Representative Counts offered the following amendment to **SB 862**:

Amend **SB 862** (House Committee Report version) as follows:

(1) Add a new section to the bill, appropriately numbered, to read as follows:

SECTION 1. Section (e), Section 201.057, Tax Code, is amended to read as follows:

(e) The operator of a proposed or existing gas well, including a gas well that has not been completed, or the operator of any proposed or existing oil or gas well within a commission approved co-production project, may apply to the commission for certification that the well produces or will produce high-cost gas. Such application, if seeking certification as high-cost gas according to Subsection (a)(2)(A), may be made at any time [must be made in writing no later than the 180th day] after the first day of production. The application

may be made but is not required to be made concurrently with a request for a determination that gas produced from the well is high-cost natural gas for purposes of the Natural Gas Policy Act of 1978 (15 U.S.C. Section 3301 et seq.) or with a request for commission approval of a co-production project. The commission may require an applicant to provide the commission with any relevant information required to administer this section. For purposes of this section, a determination that gas is high-cost natural gas according to Subsection (a)(2)(A) or a determination that gas is produced from within a commission approved co-production project is a certification that the gas is high-cost gas for purposes of this section, and in that event additional certification is not required to qualify for the exemption or tax reduction provided by this section.

(2) In SECTION 32 of the bill, on page 23, line 2, delete the word "An" and substitute in its place the following:

Notwithstanding any other provision of this section, to obtain the maximum tax exemption or tax deduction, an

(3) In SECTION 32 of the bill, on page 23, line 6, insert a new sentence between the period and the word "An" to read as follows:

If the application is not filed by the applicable deadline, the tax exemption or tax deduction is reduced by 10 percent for the period beginning on the 180th day after the first day of production and ending on the date on which the application is filed with the comptroller.

Amendment No. 5 was adopted without objection. (Finnell recorded voting present, not voting)

#### **Amendment No. 6**

Representative Holzhauser offered the following amendment to **SB 862**:

Amend **SB 862** as follows:

1. By adding the following appropriately numbered sections:

SECTION \_\_\_\_\_. Subsection (a), Section 202.201, Tax Code, is amended to read as follows:

(a) a producer authorized by the comptroller to remit the tax due shall file with the comptroller, on or before the 25th day of each calendar month, the report under this subsection and, as applicable, the report under Subsection (d) showing the total oil produced, used, lost or stolen, or possessed and otherwise unaccounted for by the producer during the preceding calendar month. The report under this subsection must show:

(1) the number of barrels of oil produced from each lease;

(2) each county [the counties] in which each lease from which oil was produced is located;

(3) the name, address, and taxpayer identification number assigned by the comptroller of each first purchaser of oil and for each the amount of oil purchased from each lease;

(4) the payment [price, by amounts,] received for the oil from [for] each first purchaser from each lease from which oil was produced;

(5) the name and lease identification number of each [the] lease from which the oil was produced; and



(6) other information the comptroller may reasonably require.

SECTION \_\_\_\_\_. Subsection (a), Section 202.202, Tax Code, is amended to read as follows:

(a) On or before the 25th day of each calendar month, each first purchaser or his authorized agent shall file a report with the comptroller. The report must contain the following information concerning oil purchased from a producer during the preceding calendar month:

(1) the number of barrels of oil purchased from each lease for each producer;

(2) the amount [price] paid to each producer for each lease from which [the] oil was purchased;

(3) the name and address of each producer;

(4) each county [the counties] in which each lease from which the purchased oil was produced is located;

(5) The name and lease identification number of each lease [names of the leases] from which the purchased oil was produced; and

(6) other information the comptroller may reasonably require.

SECTION \_\_\_\_\_. The changes made by this amendment take effect January 1, 1998, and applies to a report due on or after that date.

2. Renumber subsequent sections appropriately.

Amendment No. 6 was adopted without objection.

#### **Amendment No. 7**

Representative Holzheuser offered the following amendment to **SB 862**:

Amend **SB 862** as follows:

(1) Add the following SECTION to the bill, appropriately numbered:

SECTION \_\_\_\_\_. Section 111.107, Tax Code, is amended to read as follows:

Sec. 111.107. WHEN REFUND OR CREDIT IS PERMITTED. Except as otherwise expressly provided, a person may request a refund or a credit or the comptroller may make a refund or issue a credit for the overpayment of a tax imposed by this title at any time before the expiration of the period during which the comptroller may assess a deficiency for the tax and not thereafter unless the refund or credit is requested:

(1) under Subchapter B of Chapter 112 and the refund is made or the credit is issued under a court order;

(2) under the provision of Section 111.104(c)(3) applicable to a refund claim filed after a jeopardy or deficiency determination becomes final;

(3) under Chapter 153, except Section 153.1195(e), 153.121(d), 153.2225(e), or 153.224(d); or

(4) under Section 151.318(g) or (n).

(2) Add the following SECTION to the bill, appropriately numbered:

SECTION \_\_\_\_\_. Section 153.119(e), Tax Code, is amended to read as follows:

(e) A person who exports or loses by fire or other accident 100 or more gallons of gasoline on which the tax has been paid, or sells gasoline in any quantity to the United States government for the exclusive use of that



government on which the tax has been paid, may file a claim for a refund of the net tax paid to the state in the manner provided by this chapter or as the comptroller may direct. ~~[A permitted distributor who establishes proof satisfactory to the comptroller of export, loss by accident, or sale to the United States, may take a credit for the net amount of the tax paid to the state on any subsequent monthly report and tax payment made to the comptroller within one year after the date of the exportation, loss, or sale.]~~

(3) In SECTION 29 of the bill, following the end of amended Section 153.1195, Tax Code, add:

(e) A credit under this section must be taken before the expiration of the applicable limitation period as provided by Chapter 111.

(4) Add the following SECTION to the bill, appropriately numbered:

SECTION \_\_\_\_\_. Section 153.121, Tax Code, is amended by adding Subsection (d) to read as follows:

(d) A permitted distributor that determines taxes were erroneously reported and remitted or that paid more taxes than were due this state because of a mistake of fact or law may take a credit on the monthly tax report on which the error has occurred and tax payment made to the comptroller. The credit must be taken before the expiration of the applicable period of limitation as provided by Chapter 111.

(5) In SECTION 31 of the bill, following the end of amended Section 153.225, Tax Code, add:

(e) A credit under this section must be taken before the expiration of the applicable limitation period as provided by Chapter 111.

(6) Add the following SECTION to the bill, appropriately numbered:

SECTION \_\_\_\_\_. Section 153.224, Tax Code, is amended by adding Subsection (d) to read as follows:

(d) A permitted supplier or bonded user that determines taxes were erroneously reported or that paid more taxes than were due this state because of a mistake of fact or law may take a credit on the supplier or bonded user tax report on which the error has occurred and tax payment made to the comptroller. The credit must be taken before the expiration of the applicable period of limitation as provided by Chapter 111.

(7) Amend SECTION 46(a) to read as follows:

(a) Except as provided by Subsections (b) and (c) of this section, this Act takes effect September 1, 1997.

(8) Add the following to the end of SECTION 46.

(c) Sections 111.107, 153.119(e), 153.1195(e), 153.121(d), 153.2225(e), and 153.224, Tax Code, as amended or added by this Act, take effect October 1, 1997, and apply to gasoline or diesel fuel acquired on or after that date. Gasoline or diesel fuel acquired before that date is governed by the law in effect when the gasoline or diesel fuel was acquired and that law is continued in effect for the collection or refund of taxes.

(9) Renumber the SECTIONS of the bill appropriately and renumber the section references in SECTION 46(b) appropriately to reflect the renumbering of SECTIONS.

Amendment No. 7 was adopted without objection.

### LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for the remainder of today to attend a meeting of the conference committee on **HB 1**:

Junell on motion of Gutierrez.

Delisi on motion of Gutierrez.

Gallego on motion of Gutierrez.

Coleman on motion of Gutierrez.

### SB 862 - (consideration continued)

#### Amendment No. 8

Representative Williamson offered the following amendment to **SB 862**:

Amend **SB 862** by adding a new appropriately numbered SECTION to read as follows and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Subchapter E, Chapter 201, Tax Code, is amended by adding Section 201.2037 to read as follows:

Sec. 201.2037. DISCLOSURE OF CERTAIN INFORMATION. Notwithstanding any provision of this chapter or Chapter 202, information relating to receipt points, delivery points, volumes, rates, or other natural gas transportation contractual information is confidential and neither the comptroller nor the Railroad Commission of Texas may require disclosure of that information under this chapter or Chapter 202 unless the disclosure is reasonably necessary for the comptroller or commission to implement or administer this chapter or Chapter 202.

#### Amendment No. 9

Representative Holzheuser offered the following amendment to Amendment No. 8:

Amend the Williamson Amendment to **SB 862** as follows:

1. By adding to the end of Section 201.2037, Tax Code, as added by the amendment, the following:

This section expires September 1, 1999.

Amendment No. 9 was adopted without objection.

Amendment No. 8, as amended, was adopted without objection.

### SB 862 - STATEMENT OF LEGISLATIVE INTENT

Section 39 amends Section 403.302 of the Government Code to clarify that the manner in which the comptroller conducts the school district value study, with a focus on the overall value of school districts as opposed to appraisal districts, is the manner in which the legislature intended the study to be conducted. This section also clarifies that the manner in which the deductions from a school district's market value are currently being calculated is the manner in which the legislature intended that they be calculated. These are clarifications and not substantive changes.

Section 40 of the bill is also a clarification. It simply increases a school district's time to appeal the property value study from 30 days to 40 days, as currently allowed by comptroller rule.

Section 41 transfers the review of appraisal districts methods, standards, and procedures from the Government Code section governing the school district property value study to a Tax Code section that governs appraisal district compliance with generally accepted appraisal standards. Again, this section is intended only to clarify that the school district property value study is a study of school district property value, not appraisal districts.

Sections 42 and 43 amend the Tax Code to confirm the comptroller's authority to receive materials necessary to perform the school district property value study and the study of appraisal districts.

Holzheuser

### **REMARKS ORDERED PRINTED**

Representative Holzheuser moved to print remarks establishing legislative intent for **SB 862**.

The motion prevailed without objection.

### **LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on **HB 1**:

Swinford on motion of Gutierrez.

### **SB 862 - (consideration continued)**

**SB 862**, as amended, was passed to third reading. (Finnell recorded voting present, not voting)

### **SB 1499 ON SECOND READING (Dutton - House Sponsor)**

**SB 1499**, A bill to be entitled An Act relating to the regulation and policy forms of certain lines of insurance.

Representative Burnam raised a point of order against further consideration of **SB 1499** under Rule 11, Section 3 of the House Rules and Article III, Section 30 of the Texas Constitution on the grounds that the bill has been amended to change its original purpose.

The speaker overruled the point of order.

**SB 1499** was passed to third reading. (Burnam recorded voting no)

(Swinford now present)

### **SB 1500 ON SECOND READING (Hilbert - House Sponsor)**

**SB 1500**, A bill to be entitled An Act relating to civil jurisdiction and the awarding of attorney's fees in justice and small claims courts.

Representative Wohlgemuth raised a point of order against further consideration of **SB 1500** under Rule 4, Section 11(b) and Rule 6, Section 16(e)

of the House Rules on the grounds that the location of the formal meeting of the Calendars Committee in which the bill was placed on the calendar was not announced.

The speaker sustained the point of order.

The ruling precluded further consideration of the bill and the remainder of the bills on the calendar because the action of the Committee on Calendars to place **SB 1500** on the calendar was accomplished by a single motion that also included the remainder of the bills on the calendar.

The following bills were precluded from further consideration: **SB 585, SB 1837, SB 1948, SB 720, SB 920, SB 1099, SB 1351, SB 1340, SB 1485, SB 1376, SB 1491, SB 865, SB 229, SB 964, SB 519, SB 1124, SB 1339, SB 1266, SB 1195, SB 218, SB 673, SB 691, SB 28, SB 729, SB 984, SB 276, SB 501, SB 536, SB 784, SB 1558, SB 1407, SB 1464, SB 1105, SB 743, SB 658, SB 255, SB 547, SB 1809, SB 1874, SB 850, SB 965, SB 1183, SB 1808, SB 1055, SB 19, SB 629, SB 811, SB 1612, SB 1726, SCR 29, and SCR 75.**

### ADJOURNMENT

Representative Talton moved that the house adjourn until 10 a.m. tomorrow.

The motion prevailed without objection.

The house accordingly, at 8:45 p.m., adjourned until 10 a.m. tomorrow.

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### ADDENDUM

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#### REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

#### List No. 1

**HCR 296** (by Davila), Directing the TDH to conduct a study relating to access to quality dental care by minors.

To Public Health.

**HCR 298** (by West), In memory of W. G. "Cotton" Kirklin.

To Rules & Resolutions.

**HR 1089** (by Chavez), In memory of Jose "Rocky" Galarza.

To Rules & Resolutions.

**HR 1090** (by Chavez and Serna), Honoring Maria Cedillos on the occasion of her 113th birthday.

To Rules & Resolutions.

**HR 1093** (by Counts), Congratulating the Rule High School academic team on winning the 1997 Class 1A state championship.

To Rules & Resolutions.

**HR 1094** (by Counts), Congratulating the Hawley High School girls softball team on winning the 1997 UIL Class 2A state championship.

To Rules & Resolutions.

**HR 1095** (by Kubiak), Paying tribute to the life of Elizabeth Dragoo Gilliland.

To Rules & Resolutions.

**HR 1096** (by Kubiak), Recognizing members of the Giddings High School track and field teams.

To Rules & Resolutions.

**HR 1099** (by Pitts), In memory of Alvin A. "Bud" Owen.

To Rules & Resolutions.

**HR 1103** (by Luna), Honoring the Port Ayers Women Chapter of the American GI Forum.

To Rules & Resolutions.

### **SIGNED BY THE SPEAKER**

The following bills and resolutions were today signed in the presence of the house by the speaker:

#### **House List No. 66**

**HB 10, HB 21, HB 710, HB 827, HB 864, HB 998, HB 1070, HB 1168, HB 1173, HB 1336, HB 1418, HB 1734, HB 1755, HB 1789, HB 1811, HB 1812, HB 1886, HB 1928, HB 2033, HB 2283, HB 2380, HB 2626, HB 2874, HB 3012, HB 3054, HB 3086, HB 3135, HB 3137, HB 3189, HB 3203, HB 3269, HB 3278, HB 3563, HCR 274, HCR 287**

#### **House List No. 67**

**HB 399, HB 1294, HB 1684, HB 2025, HB 2271, HB 2386, HB 2615, HB 2617, HB 2940, HB 3465**

#### **Senate List No. 34**

**SB 23, SB 46, SB 141, SB 167, SB 187, SB 227, SB 253, SB 298, SB 337, SB 461, SB 462, SB 487, SB 644, SB 674, SB 711, SB 937, SB 972, SB 1106, SB 1246, SB 1578, SB 1607, SB 1651, SB 1893, SB 1914, SCR 34, SCR 88, SCR 97, SCR 98, SJR 45**

### **MESSAGES FROM THE SENATE**

The following messages from the senate were today received by the house:

#### **Message No. 1**

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Monday, May 26, 1997

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

**HB 972** Jones, Jesse SPONSOR: Whitmire  
Relating to systems for providing access to driver's license record information held by the Department of Public Safety.  
(AMENDED)

**HB 976** Brimer SPONSOR: Armbrister  
Relating to the abolition of the Texas Workers' Compensation Insurance Facility and the transfer of the assets and liabilities of that facility.  
(AMENDED)

**HB 1229** Counts SPONSOR: Fraser  
Relating to application of the professional prosecutors law to the district attorney of the 32nd Judicial District.

**HB 1230** Place SPONSOR: Duncan  
Relating to the place of detention for juveniles in certain counties and to the use or establishment of certain criminal detention facilities.  
(AMENDED)

**HB 1305** Brimer SPONSOR: Armbrister  
Relating to safety consultations.  
(COMMITTEE SUBSTITUTE/AMENDED)

**HB 1427** Hightower SPONSOR: Whitmire  
Relating to the possession and use of tobacco products by employees of the Texas Department of Criminal Justice.

**HB 1456** Goolsby SPONSOR: Cain  
Relating to the statute of limitations for claims against licensed interior designers and landscape architects.

**HB 1463** Bosse SPONSOR: Wentworth  
Relating to the sale of real property placed in the name of the state as a result of a tax foreclosure sale.

**HB 1465** Haggerty SPONSOR: Patterson  
Relating to the regulation of staff leasing services companies; providing penalties.  
(AMENDED)

**HB 1898** Alexander SPONSOR: Fraser  
Relating to the relocation of utilities by the Texas Department of Transportation essential to the timely completion of a state highway improvement project.

**HB 1908** Siebert SPONSOR: Wentworth  
Relating to the placement of signs along certain public roads.  
(COMMITTEE SUBSTITUTE/AMENDED)

**HB 1971** Marchant SPONSOR: Cain

Relating to usury and the regulation of lenders.

(COMMITTEE SUBSTITUTE/AMENDED)

**HB 2180** Averitt SPONSOR: Duncan

Relating to review of mandated coverage in health benefit plans.

**HB 2198** Wise SPONSOR: Lucio, Jr.

Relating to the issuance of Texas Commission on Alcohol and Drug Abuse license plates.

**HB 2297** Gallego SPONSOR: Ellis

Relating to the Texas Judicial Council.

(AMENDED)

**HB 2318** Hilderbran SPONSOR: Wentworth

Relating to the charge and control of certain state facilities located in Kerrville.

**HB 2345** Hightower SPONSOR: Nixon

Relating to the authority of a general-law municipality to annex additional areas.

**HB 2733** Driver SPONSOR: Wentworth

Relating to the operation of golf carts on a public road or highway.

**HB 2736** Uher SPONSOR: Armbrister

Relating to risk pools established by political subdivisions to provide liability coverage.

(AMENDED)

**HB 2850** Williams SPONSOR: Galloway

Relating to the exclusion from emergency service districts and rural fire prevention districts of certain territory subject to ad valorem assessments.

(AMENDED)

**HB 3065** King SPONSOR: Fraser

Relating to the eligibility of lending institutions to participate in the linked deposit program established in the Department of Agriculture.

**HB 3583** Kubiak SPONSOR: Ogden

Relating to zoning around Lake Somerville.

(AMENDED)

**HCR 256** Staples SPONSOR: Ogden

Designating Hearne the Sunflower Capital of Texas.

**HCR 294** Gutierrez

Instructing the enrolling clerk of the house of representatives to correct

**HB 2071.**

**HCR 300** Cuellar SPONSOR: Brown

Requesting the governor to return **HB 1200** to the house of representatives for further consideration.

**HJR 31**                      Patterson, L.P. "Pete"                      SPONSOR: Patterson  
Proposing a constitutional amendment permitting an encumbrance against  
homestead property for certain extensions of equity credit.  
(AMENDED)

Respectfully,

Betty King  
Secretary of the Senate

**Message No. 2**

MESSAGE FROM THE SENATE  
SENATE CHAMBER  
Austin, Texas  
Monday, May 26, 1997 - 2

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the  
following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:  
LOCAL AND UNCONTESTED CALENDAR

**HB 17**                      Chisum                      SPONSOR: Bivins  
Relating to posting signs along roadsides to promote traffic safety.

**HB 51**                      Madden                      SPONSOR: Shapiro  
Relating to requiring a declaration of write-in candidacy in an election for the  
members of the governing body of a junior college district or the board of a  
hospital district.  
(AMENDED)

**HB 102**                      Gray                      SPONSOR: Shapiro  
Relating to minimum coverage under certain health benefit plans for inpatient  
stays and postdelivery care following the birth of a child.

**HB 126**                      Danburg                      SPONSOR: Patterson  
Relating to the time of the day at which a defendant confined on conviction  
of a misdemeanor discharges the sentence of confinement.

**HB 163**                      Maxey                      SPONSOR: Gallegos, Jr.  
Relating to accelerated payment or assignment of life insurance benefits under  
the Texas Employees Uniform Group Insurance Benefits Act.

**HB 220**                      Maxey                      SPONSOR: Gallegos, Jr.  
Relating to discrimination in employment based on certain perceived disabilities.

**HB 242**                      Thompson                      SPONSOR: Ellis  
Relating to the signature of a notary public on behalf of an individual with a  
disability.  
(AMENDED)



**HB 251** Cuellar SPONSOR: Gallegos, Jr.  
Relating to creating a license for the storage of imported beer, ale, and malt liquor.  
(COMMITTEE SUBSTITUTE)

**HB 273** Davis SPONSOR: Cain  
Relating to excepting certain personal information about the identity of and personal information relating to participants in a neighborhood crime watch organization from required public disclosure under the open records law.

**HB 293** Chisum SPONSOR: Haywood  
Relating to the application of the professional prosecutors law to the district attorney for the 100th Judicial District.

**HB 318** Cuellar SPONSOR: Bivins  
Relating to the public education grant program.  
(COMMITTEE SUBSTITUTE)

**HB 330** Danburg SPONSOR: Shapiro  
Relating to the form of the ballot and related procedures in connection with certain voters voting on an affidavit; providing criminal penalties.  
(COMMITTEE SUBSTITUTE)

**HB 425** Raymond SPONSOR: Ellis  
Relating to the policies of state agencies regarding work and family issues.

**HB 438** Alvarado SPONSOR: Whitmire  
Relating to the implementation of a controlled substances testing program to be administered to inmates housed in facilities operated by or under contract with the Texas Department of Criminal Justice.  
(AMENDED)

**HB 462** Zbranek SPONSOR: Nixon  
Relating to the application of the professional prosecutors law to the district attorney for the 88th Judicial District.

**HB 500** Finnell SPONSOR: Haywood  
Relating to application of the professional prosecutors law to the district attorney of the 50th Judicial District.

**HB 607** Maxey SPONSOR: Madla  
Relating to the creation of a durable medical equipment and assistive technology listing.  
(AMENDED)

**HB 640** Kamel SPONSOR: Cain  
Relating to exempting peace officers disabled in the line of duty from tuition and fees charged by a public institution of higher education.

**HB 677** Solomons SPONSOR: Haywood  
Relating to the punishment for certain persons who sell, manufacture, distribute, or possess a document that is deceptively similar to a driver's license.  
(COMMITTEE SUBSTITUTE)

- HB 723**                Dukes                      SPONSOR: Wentworth  
Relating to informed consent before the performance of a hysterectomy.  
(COMMITTEE SUBSTITUTE)
- HB 790**                Gallego                      SPONSOR: West  
Relating to payment of compensation to employees of the Department of Public Safety.
- HB 814**                Danburg                      SPONSOR: Ellis  
Relating to the title of certain persons licensed to sell real estate.
- HB 826**                Turner, Bob                      SPONSOR: Wentworth  
Relating to the tax rate of the Sutton County Hospital District.
- HB 839**                Driver                      SPONSOR: Cain  
Relating to prohibiting discrimination by insurers in issuing health or life insurance policies to certain persons who are victims of family violence.
- HB 841**                Jackson                      SPONSOR: Brown  
Relating to voting procedures for persons on a space flight.
- HB 881**                Reyna, Arthur                      SPONSOR: Wentworth  
Relating to the priority of payment of claims against a decedent's estate.
- HB 882**                Horn                      SPONSOR: Nelson  
Relating to designating property as a homestead.
- HB 889**                Craddick                      SPONSOR: Bivins  
Relating to disclosure of certain health care information by a hospital employee to a patient's clergy person.
- HB 891**                Hartnett                      SPONSOR: Harris  
Relating to the age of a person who may be married without formalities.
- HB 920**                Jones, Delwin                      SPONSOR: Duncan  
Relating to the width of certain vehicles transporting seed cotton modules.
- HB 970**                McClendon                      SPONSOR: Madla  
Relating to the transportation of hazardous materials in certain municipalities.  
(COMMITTEE SUBSTITUTE)
- HB 981**                Alexander                      SPONSOR: Cain  
Relating to fines for traffic offenses in highway or street construction or maintenance work zones.
- HB 1001**                Dutton                      SPONSOR: Cain  
Relating to eligibility requirements for voting by persons convicted of a felony.
- HB 1048**                Gutierrez                      SPONSOR: Armbrister  
Relating to the civil and criminal consequences of a conviction for certain offenses involving a fictitious motor vehicle license plate, registration insignia, or safety inspection certificate.
- HB 1062**                Hunter                      SPONSOR: Shapiro  
Relating to access to criminal history record information by the Texas State Library and Archives Commission.

**HB 1107**            Telford                      SPONSOR: Moncrief  
Relating to the continuation and functions of the State Preservation Board.  
(COMMITTEE SUBSTITUTE)

**HB 1142**            Patterson, L.P. "Pete"            SPONSOR: Cain  
Relating to the determination of the inmate population of a county jail.  
(AMENDED)

**HB 1161**            Clark                              SPONSOR: Shapiro  
Relating to uniform competitive bidding requirements for municipalities.  
(AMENDED)

**HB 1176**            Allen                              SPONSOR: Brown  
Relating to public access to conviction and deferred adjudication information and to certain sex offender registration information maintained by the Department of Public Safety.

**HB 1192**            Rhodes                          SPONSOR: Armbrister  
Relating to the duties of law enforcement agencies to enforce protective orders.

**HB 1238**            Junell                              SPONSOR: Duncan  
Relating to the appointment of a public defender by the Commissioners Court of Tom Green County.

**HB 1287**            Counts                          SPONSOR: Duncan  
Relating to the refund of assessments and the transfer of funds among accounts of the Texas Title Insurance Guaranty Association.

**HB 1310**            Chisum                          SPONSOR: Bivins  
Relating to the extension or reimposition of the sales and use tax by certain industrial development corporations.

**HB 1314**            Naishtat                          SPONSOR: Wentworth  
Relating to a trust created for the management of a ward's assets.

**HB 1317**            Naishtat                          SPONSOR: Wentworth  
Relating to the guardianship of missing persons and receiverships for the estate of certain missing persons.

**HB 1324**            Carter                              SPONSOR: Cain  
Relating to the administration and financing of emergency communications.  
(COMMITTEE SUBSTITUTE)

**HB 1362**            Giddings                          SPONSOR: Nelson  
Relating to exemptions from regulation as a food manufacturer or wholesaler.  
(AMENDED)

**HB 1370**            Garcia                              SPONSOR: Shapiro  
Relating to the punishment for the offense of criminal mischief.  
(AMENDED)

**HB 1384**            Telford                          SPONSOR: Ratliff  
Relating to the tuition charged to certain nonresident students registered at certain upper-level public institutions of higher education.

**HB 1468** West, George "Buddy" SPONSOR: Bivins  
Relating to the Ector County Independent School District model career-targeted transition program.  
(COMMITTEE SUBSTITUTE)

**HB 1473** Siebert SPONSOR: Cain  
Relating to the licensing and regulation of certain motor vehicle dealers.

**HB 1476** Bonnen SPONSOR: Sibley  
Relating to actions and records of the receiver and the priorities of distribution of certain assets of insurance companies in receivership.  
(COMMITTEE SUBSTITUTE)

**HB 1483** Danburg SPONSOR: Armbrister  
Relating to certain early voting processes and procedures; providing a criminal penalty.

**HB 1489** Turner, Bob SPONSOR: Wentworth  
Relating to the regulation of certain animals.

**HB 1516** Thompson SPONSOR: Harris  
Relating to the creation of a record keeping system for assisting law enforcement in the location of missing children.  
(AMENDED)

**HB 1572** Davila SPONSOR: Luna  
Relating to disposal of certain property by a charitable organization.

**HB 1603** Ehrhardt SPONSOR: Shapiro  
Relating to changing terminology involving gender in the Election Code to gender-neutral terminology.

**HB 1606** Hartnett SPONSOR: Harris  
Relating to truant conduct or conduct resulting in a failure to attend school.

**HB 1653** Wise SPONSOR: Gallegos, Jr.  
Relating to the dating of state publications.

**HB 1665** Oliveira SPONSOR: Lucio, Jr.  
Relating to disclosure of the location of certain subsurface conditions by a person who is selling unimproved real property to be used for residential purposes.

**HB 1667** Junell SPONSOR: Wentworth  
Relating to the confidentiality of documents evaluating the performance of certain officers of community supervision and corrections departments.

**HB 1668** Junell SPONSOR: Cain  
Relating to the fees imposed to fund 9-1-1 services and regional poison control centers and to the oversight of the collection and use of those fees.

**HB 1672** Janek SPONSOR: Ellis  
Relating to the requirements of a price list and a memorandum for funeral merchandise and services.

**HB 1688** Kuempel SPONSOR: Wentworth  
Relating to the jurisdiction and administration of the Guadalupe County Court at Law.

**HB 1703** Torres SPONSOR: Cain  
Relating to altering the form of a business entity that is the holder of an alcoholic beverage permit or license.

**HB 1706** Keffer SPONSOR: Fraser  
Relating to the terms of court of the 42nd District Court.

**HB 1716** Maxey SPONSOR: Zaffirini  
Relating to the membership and duties of the statewide health coordinating council.  
(COMMITTEE SUBSTITUTE)

**HB 1723** Telford SPONSOR: Ratliff  
Relating to appraisal for property tax purposes of open-space land that is converted to production of timber.

**HB 1751** West, George "Buddy" SPONSOR: Bivins  
Relating to certain individuals who may bring a suit to contest the paternity of a child.

**HB 1756** Telford SPONSOR: Harris  
Relating to the liability of Texas Youth Commission volunteers.

**HB 1780** Greenberg SPONSOR: Armbrister  
Relating to the purchase of service credit in the Employees Retirement System of Texas and the Teacher Retirement System of Texas.

**HB 1790** Alexander SPONSOR: Cain  
Relating to the licensing and regulation of certain motor vehicle dealers.

**HB 1843** Marchant SPONSOR: Sibley  
Relating to funeral merchandise and services and other funeral benefits.  
(AMENDED)

**HB 1868** Turner, Sylvester SPONSOR: Zaffirini  
Relating to certain exceptions to the definition of dentistry.  
(AMENDED)

**HB 1891** Patterson, L.P. "Pete" SPONSOR: Ratliff  
Relating to the Lamar County Juvenile Board.  
(COMMITTEE SUBSTITUTE)

**HB 1899** Hochberg SPONSOR: Gallegos, Jr.  
Relating to public participation in alcoholic beverage licensing or permitting hearings.

**HB 1912** Wise SPONSOR: Lucio, Jr.  
Relating to the reporting of certain information to the national crime information center.

**HB 1937** Flores SPONSOR: Lucio, Jr.  
Relating to notice to an owner or operator of a motor vehicle of security required following an accident.

**HB 1941** Place SPONSOR: Armbrister  
Relating to poaching; providing a penalty.  
(COMMITTEE SUBSTITUTE)

**HB 1960** Howard SPONSOR: Brown  
Relating to abolishing the pollution prevention council.

**HB 2005** Thompson SPONSOR: Duncan  
Relating to the possession of and access to grandchildren by grandparents.

**HB 2018** Maxey SPONSOR: Ellis  
Relating to the allocation of space to state agencies.

**HB 2067** Swinford SPONSOR: Bivins  
Relating to temporary vehicle registration.

**HB 2078** Naishtat SPONSOR: Barrientos  
Relating to the disposition of a person's remains.

**HB 2082** Hightower SPONSOR: West  
Relating to the authority of the Texas Youth Commission to sell or license the right to use a treatment program developed by the commission.

**HB 2084** Hilderbran SPONSOR: Nelson  
Relating to the establishment of a pilot project in which vouchers are used for payment of certain health care services.

**HB 2088** Cuellar SPONSOR: Zaffirini  
Relating to the regulation of certain midwives; providing administrative penalties.  
(COMMITTEE SUBSTITUTE)

**HB 2096** Uher SPONSOR: Patterson  
Relating to the selection of depositories by navigation districts and port authorities.

**HB 2098** Uher SPONSOR: Cain  
Relating to the licensing of certain franchised dealers who engage in the leasing of motor vehicles.  
(COMMITTEE SUBSTITUTE)

**HB 2099** Uher SPONSOR: Patterson  
Relating to student loan reimbursements for physician assistants practicing in certain areas.

**HB 2115** Craddick SPONSOR: Bivins  
Relating to the designation of certain highways as the future route of La Entrada al Pacifico Corridor.

**HB 2157** Williamson SPONSOR: Wentworth  
Relating to reporting under the sales and use tax the value of certain tickets to an amusement service purchased for resale.

**HB 2169** Kubiak SPONSOR: Armbrister  
Relating to the liability of certain persons and organizations that provide emergency services.

**HB 2189** Naishtat SPONSOR: Wentworth  
Relating to the payment of claims by guardians and certain reports and accounts submitted by guardians or personal representatives of estates.  
(COMMITTEE SUBSTITUTE)

**HB 2202** Bosse SPONSOR: Duncan  
Relating to the regulation of vehicle storage facilities; providing a penalty.

**HB 2203** Bosse SPONSOR: Lucio, Jr.  
Relating to a requirement that a municipality maintain a public record of its extraterritorial jurisdiction.

**HB 2213** Delisi SPONSOR: Armbrister  
Relating to municipal and county policies regarding enforcement of certain drug laws.

**HB 2221** Turner, Bob SPONSOR: Ratliff  
Relating to limitations on the amount of life insurance risk that may be written by certain agents of or assumed by a stipulated premium insurance company.

**HB 2222** Rhodes SPONSOR: Armbrister  
Relating to the bond and oath requirements applicable to a sheriff.

**HB 2227** McReynolds SPONSOR: Harris  
Relating to additional periods of possession or access to a child.

**HB 2257** Luna, Vilma SPONSOR: Brown  
Relating to the audit required for forfeited property and proceeds received by a law enforcement agency or an attorney representing the state.

**HB 2273** Thompson SPONSOR: Ellis  
Relating to certain duties of court clerks.

**HB 2309** Thompson SPONSOR: Ellis  
Relating to fees charged by a justice of the peace.

**HB 2332** Hinojosa SPONSOR: Lucio, Jr.  
Relating to permitting the Board of Regents of The University of Texas System to convey certain real property to a political subdivision located in Hidalgo County.  
(AMENDED)

**HB 2397** Finnell SPONSOR: Fraser  
Relating to certain agreements to provide health care services under the Indigent Health Care and Treatment Act.

**HB 2424** Puente SPONSOR: Wentworth  
Relating to deductions from lottery winnings and compensation of the amount of certain child support, taxes, and other payments.

**HB 2437** Bonnen SPONSOR: Sibley  
Relating to the Texas Property and Casualty Insurance Guaranty Association.  
(COMMITTEE SUBSTITUTE)

**HB 2438** Chisum SPONSOR: Bivins  
Relating to the fire insurance rates and fire suppression ratings of a municipality at or near the state's borders.

**HB 2462**                      Pitts                                      SPONSOR: Nelson  
Relating to authorizing a single county to create a rural rail transportation district.

**HB 2469**                      McReynolds                                      SPONSOR: Ratliff  
Relating to the operation of vehicles transporting timber or timber products and to the operation of vehicles transporting poles or pipe.

**HB 2491**                      Alexander                                      SPONSOR: Ratliff  
Relating to participation by community colleges in the state employee charitable contribution program.  
(COMMITTEE SUBSTITUTE)

**HB 2502**                      Elkins                                      SPONSOR: Patterson  
Relating to the venue for prosecution of the offense of failing or refusing to pay the toll imposed for the operation of a motor vehicle on a toll project of certain counties.

**HB 2506**                      Dukes                                      SPONSOR: Ellis  
Relating to interest charged on late payment made by certain political subdivisions under a contract for goods or services.

**HB 2512**                      Hunter                                      SPONSOR: Shapiro  
Relating to the authority of the Texas State Library and Archives Commission to accept donations and services from certain sources.

**HB 2555**                      Solomons                                      SPONSOR: Nelson  
Relating to the creation of two county criminal courts in Denton County.

**HB 2564**                      Hinojosa                                      SPONSOR: Lucio, Jr.  
Relating to authorizing the Board of Regents of The University of Texas System to acquire by purchase, exchange, gift, or otherwise certain properties to be used for campus expansion and university purposes in The University of Texas System.

**HB 2573**                      Berlanga                                      SPONSOR: Armbrister  
Relating to fees assessed for the regulation of athletic trainers and the audit of certain financial transactions regarding that regulation.

**HB 2584**                      Torres                                      SPONSOR: Gallegos, Jr.  
Relating to the contents of certain retail alcoholic beverage permits and licenses.

**HB 2587**                      Horn                                      SPONSOR: Sibley  
Relating to the collection of delinquent property taxes and the foreclosure of tax liens.

**HB 2606**                      Ramsay                                      SPONSOR: Ogden  
Relating to the appraisal and ad valorem taxation of a retail manufactured housing inventory; providing penalties.

**HB 2622**                      Heflin                                      SPONSOR: Brown  
Relating to liability for postjudgment taxes, penalties, and interest in a suit to collect a delinquent ad valorem tax.

**HB 2633**                      Brimer                                      SPONSOR: Harris  
Relating to attorney compensation in certain matters; providing civil and criminal penalties.



**HB 2634** Place SPONSOR: Patterson  
Relating to administrative fees collected by community supervision and corrections departments.

**HB 2671** Burnam SPONSOR: Harris  
Relating to acceptance of an insurance binder by certain lenders.

**HB 2705** Chisum SPONSOR: Brown  
Relating to the program for the voluntary cleanup of contaminants.  
(COMMITTEE SUBSTITUTE)

**HB 2731** Howard SPONSOR: Armbrister  
Relating to the creation of the First Colony Management District.

**HB 2745** Haggerty SPONSOR: Whitmire  
Relating to the location of certain hearings affecting the status of alcoholic beverage permits.

**HB 2747** Hinojosa SPONSOR: Lucio, Jr.  
Relating to allowing students at public junior colleges to pay tuition and fees in installments.

**HB 2749** McClendon SPONSOR: West  
Relating to standards adopted for and registry of juvenile pre-adjudication and post-adjudication secure detention and correctional facilities by the Texas Juvenile Probation Commission.

**HB 2750** Hinojosa SPONSOR: Lucio, Jr.  
Relating to certain municipal firefighters and police officers entitled to additional wages; providing a civil penalty.

**HB 2779** Junell SPONSOR: Shapiro  
Relating to requiring the office of the attorney general to defend local community supervision and corrections departments in certain suits brought against them.

**HB 2795** Averitt SPONSOR: Duncan  
Relating to the composition and powers of the Texas Health Benefits Purchasing Cooperative; amending Chapter 26, Insurance Code; and declaring an emergency.

**HB 2807** Flores SPONSOR: Lucio, Jr.  
Relating to the administration of the citrus budwood certification program; providing a penalty.

**HB 2816** Torres SPONSOR: Whitmire  
Relating to the expiration of secondary alcoholic beverage permits and licenses.  
(COMMITTEE SUBSTITUTE)

**HB 2856** Hupp SPONSOR: Gallegos, Jr.  
Relating to the protection of women's health with respect to services performed at an abortion facility and the right to access certain information relating to abortion facilities.

**HB 2866** Chavez SPONSOR: Harris  
Relating to the completion, filing, and registration of certain death records.  
(AMENDED)

- HB 2868** Bonnen SPONSOR: Patterson  
Relating to a master drainage plan for certain counties.
- HB 2873** Goodman SPONSOR: Ellis  
Relating to the policy forms for certain large risk insurance policies.
- HB 2875** Greenberg SPONSOR: Shapiro  
Relating to minimum training standards for an employee of a regulated child-care facility.
- HB 2887** Dutton SPONSOR: Whitmire  
Relating to promotional or educational activities of title insurance entities.
- HB 2899** Crabb SPONSOR: Whitmire  
Relating to the development of information to identify missing children or persons.
- HB 2919** Stiles SPONSOR: Galloway  
Relating to the powers and the board of directors of the Lower Neches Valley Authority.
- HB 2982** Junell SPONSOR: Duncan  
Relating to the authority of certain counties to borrow money.
- HB 2984** Hunter SPONSOR: Zaffirini  
Relating to the establishment of a pilot program regarding the care, rehabilitation, and education of medically fragile children and their families.  
(AMENDED)
- HB 2997** Jones, Delwin SPONSOR: Duncan  
Relating to the regulation of outdoor advertising in certain dry areas.
- HB 3027** Smithee SPONSOR: Cain  
Relating to recoupment of certain professional liability discounts in lieu of reimbursement under Chapter 110, Civil Practice and Remedies Code; and declaring an emergency.
- HB 3037** Cook SPONSOR: Armbrister  
Relating to cost-of-service studies for electric cooperative corporations exempt from rate regulation.
- HB 3048** Hodge SPONSOR: Cain  
Relating to the application of certain laws prohibiting employment discrimination.
- HB 3062** Hightower SPONSOR: Whitmire  
Relating to comprehensive revisions to Subchapter B, Chapter 56, Code of Criminal Procedure, the Crime Victims' Compensation Act.  
(AMENDED)
- HB 3063** Clark SPONSOR: Haywood  
Relating to the registration of certain golf carts.
- HB 3074** Gray SPONSOR: Armbrister  
Relating to the mitigation of, preparedness for, response to, and recovery from disasters.

**HB 3075** Berlanga SPONSOR: Zaffirini  
Relating to the possession of dangerous drugs by a home and community support services agency.

**HB 3076** Oliveira SPONSOR: Sibley  
Relating to the terms of the board of directors of a savings bank.

**HB 3077** Oliveira SPONSOR: Sibley  
Relating to the merger, consolidation, or conversion of a federal savings bank or savings association into a domestic or foreign savings bank or savings association.

**HB 3078** Oliveira SPONSOR: Sibley  
Relating to an incorporation requirement of a state savings bank.

**HB 3088** Hartnett SPONSOR: Wentworth  
Relating to the notice required to be given in a proceeding to determine heirship.  
(COMMITTEE SUBSTITUTE)

**HB 3092** Jones, Jesse SPONSOR: Cain  
Relating to equipment requirements for certain buses.

**HB 3104** Craddick SPONSOR: Bivins  
Relating to appointment of a bailiff for the 385th district court in Midland County.

**HB 3105** Craddick SPONSOR: Bivins  
Relating to the supplemental salaries of judges of the district courts having jurisdiction in Midland County.

**HB 3106** Craddick SPONSOR: Brown  
Relating to the regulation of the practice of physical therapy; providing administrative penalties.

**HB 3116** Greenberg SPONSOR: Ellis  
Relating to work supplementation programs for certain welfare recipients.  
(AMENDED)

**HB 3158** Hilbert SPONSOR: Madla  
Relating to certain bonds executed by sureties.

**HB 3176** Jones, Delwin SPONSOR: Duncan  
Relating to the sampling of wine on the premises of a holder of a winery permit.

**HB 3194** Alexander SPONSOR: Cain  
Relating to the construction and operation of certain sour gas pipeline facilities.  
(AMENDED)

**HB 3224** Eiland SPONSOR: Patterson  
Relating to the dissolution of a beach park board of trustees.

**HB 3266** Craddick SPONSOR: Bivins  
Relating to the Midland County Hospital District.

**HB 3330** Talton SPONSOR: Patterson  
Relating to ownership of a drainage outfall ditch in Harris County.

**HB 3345**            Smith                            SPONSOR: Harris  
Relating to the investigation of a report of child abuse or neglect during the pendency of a suit affecting the parent-child relationship.

**HB 3368**            Junell                                    SPONSOR: Shapiro  
Relating to the acquisition of real property by the General Services Commission as an alternative to leasing space.

**HB 3370**            Junell                                    SPONSOR: Armbrister  
Relating to a gift, political contribution or activity of an officer or employee of the Texas Lottery Commission or a former officer or employee of the Texas Lottery Commission.  
(COMMITTEE SUBSTITUTE)

**HB 3436**            Kubiak                                   SPONSOR: Whitmire  
Relating to reports required by certain retailers of alcoholic beverages.

**HB 3437**            Kubiak                                   SPONSOR: Cain  
Relating to the cancellation or suspension of an alcoholic beverage private club registration permit.

**HB 3440**            Kubiak                                   SPONSOR: Cain  
Relating to the cancellation or suspension of certain alcoholic beverage licenses.

**HB 3441**            Kubiak                                   SPONSOR: Cain  
Relating to the offense of purchase or possession of alcohol by a minor.

**HB 3513**            Greenberg                               SPONSOR: Sibley  
Relating to the position classification plan for state employees.

**HB 3517**            Goolsby                                   SPONSOR: Harris  
Relating to approval of monuments on the grounds of the state capitol.

**HB 3530**            Holzheuser                              SPONSOR: Cain  
Relating to energy savings projects for school districts, institutions of higher education, and state agencies.

**HB 3538**            Sadler                                    SPONSOR: Ratliff  
Relating to the jurisdiction of the County Court at Law of Rusk County.

**HB 3540**            Price                                      SPONSOR: Galloway  
Relating to the election of commissioners of the Port of Beaumont Navigation District of Jefferson County.  
(COMMITTEE SUBSTITUTE)

**HB 3545**            Oliveira                                   SPONSOR: Lucio, Jr.  
Relating to the statutory county courts in Cameron County.  
(AMENDED)

**HB 3550**            Junell                                    SPONSOR: Fraser  
Relating to the creation of the juvenile board of Concho County.

**HB 3556**            Hinojosa                                 SPONSOR: Lucio, Jr.  
Relating to the county courts at law of Hidalgo County.

**HB 3557**            Hilderbran                               SPONSOR: Fraser  
Relating to the creation of a statutory county court in Burnet County.

**HB 3566** Rhodes SPONSOR: Armbrister  
Relating to the Gonzales County Hospital District.

**HB 3569** Madden SPONSOR: Shapiro  
Relating to bank accounts in the name of candidates for public office.

**HB 3570** Jones, Delwin SPONSOR: Duncan  
Relating to the length limitation for a vehicle or vehicle combination transporting a combine.

**HB 3574** Lewis, Ron SPONSOR: Galloway  
Relating to the election and terms of office of directors of the Jefferson County Water Control and Improvement District No. 10.

**HB 3576** Stiles SPONSOR: Armbrister  
Relating to state agencies' use of special mail services.

**HB 3586** Eiland SPONSOR: Patterson  
Relating to the election of the board of supervisors of the Clear Creek Drainage District of Galveston County.

**HB 3588** Lewis, Glenn SPONSOR: Harris  
Relating to criminal law magistrates in Tarrant County.

**HB 3589** Keel, Terry SPONSOR: Wentworth  
Relating to authorizing Lakeway Municipal Utility District to exclude land from its boundaries, providing notice of the exclusion, and adding other related provisions.

**HB 3591** Kamel SPONSOR: Ratliff  
Relating to the authority of the Smith County Juvenile Board to accept gifts and grants.

**HB 3592** Madden SPONSOR: Shapiro  
Relating to the terms of the directors of the Seis Lagos Utility District.

**HB 3597** Williamson SPONSOR: Sibley  
Relating to the creation, administration, powers, duties, operation, and financing of the Parker County Utility District No. 1; granting the power of eminent domain.

**HB 3602** King SPONSOR: Zaffirini  
Relating to the creation, administration, powers, duties, operation, and financing of the Wintergarden Groundwater Conservation District.  
(AMENDED)

**HB 3603** Craddick SPONSOR: Duncan  
Relating to fees to finance capital improvements in certain municipalities.

**HB 3605** Counts SPONSOR: Fraser  
Relating to the assignment of the judge of the County Court at Law of Nolan County.

**HB 3609** Place SPONSOR: Sibley  
Relating to the boundaries, powers, administration, duties, finances, contracts, and terms of directors of the Upper Leon River Municipal Water District.

**HCR 2** Turner, Bob SPONSOR: Carona  
Requesting that the governor consider including a veterans' representative on various boards and commissions.

**HCR 14** Pitts SPONSOR: Nelson  
Designating the city of Waxahachie the Crape Myrtle Capital of Texas.

**HCR 23** Maxey SPONSOR: Barrientos  
Designating the guitar as the official State Musical Instrument of Texas.

**HCR 26** Maxey SPONSOR: Ratliff  
Granting The Burnett Companies, doing business as Burnett Personnel Services, permission to sue the State of Texas and the Texas Department of Banking.

**HCR 67** Turner, Bob SPONSOR: Carona  
Requesting the Texas Department of Transportation to erect highway signs indicating exits and directions to federal and state veterans' hospitals, clinics, and cemeteries.

**HCR 80** Counts SPONSOR: Duncan  
Designating Wyman Meinzer as Texas State Photographer.

**HCR 82** Carter SPONSOR: Moncrief  
Declaring the chiltepin the official State Native Pepper of Texas.

**HCR 85** Hightower SPONSOR: Ogden  
Granting Dan Beto and Donna Beto permission to be buried in the Texas State Cemetery.

**HCR 116** Kubiak SPONSOR: Ogden  
Designating the Chappell Hill Bluebonnet Festival as the official Bluebonnet Festival of Texas.

**HCR 143** Hunter SPONSOR: Wentworth  
Establishing procedures for the nomination and selection of recipients of the Governor's Awards for Excellence in the Arts, Humanities, and Sciences.

**HCR 149** Wise SPONSOR: Lucio, Jr.  
Designating the City of Weslaco as the Citrus Capital of Texas.

**HCR 151** Naishtat SPONSOR: Carona  
Directing TDHS to take steps to expand community options for long-term care.

**HCR 156** Janek SPONSOR: West  
Directing the Texas Department of Health to develop a comprehensive plan to control the spread of Hepatitis A in Texas.

**HCR 168** Delisi SPONSOR: Lucio, Jr.  
Urging Congress to oversee the audit of teaching hospitals.

**HCR 202** Walker SPONSOR: Duncan  
Memorializing congress to allocate funds for road expansion in Texas to the Waste Isolation Pilot Plant project in New Mexico.

**HCR 209** Delisi SPONSOR: Bivins  
Supporting the desire of the board of regents of The Texas A&M University System to combine the Baylor College of Dentistry, the Texas A&M University

College of Medicine, the Texas A&M University Institute of Biosciences and Biotechnology, and the Texas A&M University School of Rural Public Health into a unified administrative structure to be named The Texas A&M University System Health Science Center.

**HCR 211**            Marchant            SPONSOR: Wentworth  
Memorializing congress to pass legislation to increase volume caps and index them to inflation.

**HCR 212**            Goolsby            SPONSOR: Harris  
Authorizing the lieutenant governor and speaker to appoint interim joint committees.

**HCR 215**            Delisi            SPONSOR: Ratliff  
Directing the Health and Human Services Commission to implement cost-saving measures in the Medicaid prescription drug program.  
(AMENDED)

**HCR 228**            Jones, Delwin            SPONSOR: Duncan  
Designating cotton the Official State Fiber and Fabric of Texas.

**HCR 230**            Craddick            SPONSOR: Bivins  
Commemorating the 100th anniversary of the dedication of Saint Ann's Catholic Church in Midland.

**HCR 232**            Van de Putte            SPONSOR: Moncrief  
Designating May 8, 1997, Clinical Nutrition Day in Texas.

**HCR 235**            Lewis, Glenn            SPONSOR: Moncrief  
Honoring the Texas Association of African American Chambers of Commerce and declaring May 5-9, 1997, as Chamber of Commerce Week in Texas.

**HCR 236**            Olivo            SPONSOR: Ellis  
Honoring Judge Jodie E. Stavinoha.

**HCR 242**            Counts            SPONSOR: Lucio, Jr.  
In memory of Glenn Hopkins.

**HCR 265**            Uher            SPONSOR: Armbrister  
Recognizing the Texas Czech Heritage and Cultural Center.

**SB 1866**            Wentworth  
Relating to changes in the property tax calendar.

**SCR 93**            Wentworth  
Designating the first week of April, 1997, as Texas Natural Resources Week.

**SCR 94**            Wentworth  
Commending the Natural Resources Foundation of Texas for its work in establishing the Natural Resources Academies.

Respectfully,

Betty King  
Secretary of the Senate

**Message No. 3****MESSAGE FROM THE SENATE  
SENATE CHAMBER**

Austin, Texas

Monday, May 26, 1997 - 3

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS CONCURRED IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

|                |                   |
|----------------|-------------------|
| <b>SB 54</b>   | (viva-voce vote)  |
| <b>SB 118</b>  | (viva-voce vote)  |
| <b>SB 205</b>  | (viva-voce vote)  |
| <b>SB 280</b>  | (31 YEAS, 0 NAYS) |
| <b>SB 329</b>  | (viva-voce vote)  |
| <b>SB 489</b>  | (viva-voce vote)  |
| <b>SB 495</b>  | (viva-voce vote)  |
| <b>SB 1514</b> | (31 YEAS, 0 NAYS) |
| <b>SB 1529</b> | (viva-voce vote)  |
| <b>SB 1566</b> | (viva-voce vote)  |
| <b>SB 1877</b> | (viva-voce vote)  |
| <b>SB 1888</b> | (viva-voce vote)  |
| <b>SB 1911</b> | (31 YEAS, 0 NAYS) |
| <b>SB 1912</b> | (31 YEAS, 0 NAYS) |

THE SENATE HAS REFUSED TO CONCUR IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

**SB 30**

Senate Conferees: Zaffirini - Chair/Bivins/Moncrief/Nelson/Ogden/

**SB 359**

Senate Conferees: Brown - Chair/Armbrister/Harris/Moncrief/Zaffirini/

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:



**HB 381**

Senate Conferees: Madla - Chair/Gallegos/Galloway, Michael/Lucio/Sibley/

**HB 583**

Senate Conferees: Barrientos - Chair/Bivins/Luna, Gregory/Shapiro/West, Royce/

**HB 1028**

Senate Conferees: Wentworth - Chair/Barrientos/Cain/Lindsay/Ogden/

**HB 2339**

Senate Conferees: Brown - Chair/Cain/Duncan/Madla/Wentworth/

**HB 2394**

Senate Conferees: Fraser - Chair/Cain/Duncan/Lindsay/Ogden/

**HB 2517**

Senate Conferees: Shapleigh - Chair/Bivins/Luna, Gregory/Sibley/West, Royce/

**HB 2906**

Senate Conferees: Ratliff - Chair/Armbrister/Cain/Carona/Fraser/

**HB 3263**

Senate Conferees: Gallegos - Chair/Cain/Ellis/Madla/Whitmire/

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**HB 39** (viva-voce vote)

**HB 506** (viva-voce vote)

**HB 1212** (31 YEAS, 0 NAYS)

**HB 1235** (31 YEAS, 0 NAYS)

**HB 1710** (viva-voce vote)

**SB 273** (31 YEAS, 0 NAYS)

THE SENATE HAS DISCHARGED ITS CONFEREES AND CONCURRED IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

**SJR 17** (31 YEAS, 0 NAYS)

Respectfully,

Betty King  
Secretary of the Senate

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**APPENDIX**

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**STANDING COMMITTEE REPORTS**

Favorable reports have been filed by committees as follows:

May 25

Economic Development - **SB 571**

Human Services - **SB 1763**

**ENROLLED**

May 25 - **HB 10, HB 21, HB 349, HB 819, HB 827, HB 864, HB 998, HB 1168, HB 1356, HB 1418, HB 1611, HB 1734, HB 1755, HB 1789, HB 1811, HB 1812, HB 1836, HB 1880, HB 1886, HB 1928, HB 1961, HB 2033, HB 2062, HB 2261, HB 2283, HB 2380, HB 2561, HB 2626, HB 2681, HB 2874, HB 3012, HB 3054, HB 3086, HB 3135, HB 3137, HB 3189, HB 3244, HB 3269, HB 3278, HB 3279, HB 3383, HB 3428, HB 3563, HB 3607, HCR 21, HCR 274, HCR 287, HJR 104**